SD
427
C5A4
1912

U. S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE.
H. S. GRAVES, Forester.

THE NATIONAL FOREST MANUAL.

REGULATIONS OF THE SECRETARY OF AGRICULTURE AND INSTRUCTIONS TO FOREST OFFICERS RELATING TO CLAIMS, SETTLEMENT, AND ADMINISTRATIVE SITES ON NATIONAL FOREST LANDS.

ISSUED BY THE
SECRETARY OF AGRICULTURE
TO TAKE EFFECT
February 1, 1912.

CLAIMS.
SETTLEMENT.
ADMINISTRATIVE SITES.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1912.

Class SD427
Book C5A4
1912

6

U. S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE.
H. S. GRAVES, Forester.

174

THE NATIONAL FOREST MANUAL.

REGULATIONS OF THE SECRETARY OF AGRICULTURE AND INSTRUCTIONS TO FOREST OFFICERS RELATING TO CLAIMS, SETTLEMENT, AND ADMINISTRATIVE SITES ON NATIONAL FOREST LANDS.

448
957

ISSUED BY THE
SECRETARY OF AGRICULTURE
TO TAKE EFFECT
February 1, 1912.

CLAIMS.
SETTLEMENT.
ADMINISTRATIVE SITES.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1912.

SD427
.C5A4
1912

The Secretary * * * may make such rules and regulations * * * as will insure the objects of said reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction; and any violation of this act or such rules and regulations shall be punished (by $500 fine or 12 months' imprisonment, or both) as is provided for in the act of June 4, 1888, amending section 5388 of the Revised Statutes of the United States. (Act of June 4, 1897, 30 Stat., 11.)

D. OF D.
JAN 18 1912

CONTENTS.

	Page.
Claims	7
Regulations	7
Relinquishments	7
General instructions	8
Why claims are examined	8
Initiation of claims on National Forest land	8
Determination of titles to claims	9
Definition of a valid claim	9
Government adverse claimant to lands withdrawn for National Forests.	9
Reports on claims confidential	9
Examination of mineral claims	9
Squatters' claims on National Forest land	9
Free use of timber for development of mining claims	10
Status of lands after cancellation of claim	10
Passage of title by patent	10
Passage of title by certification	10
How patents may be annulled	11
Suit to vacate patent	11
Procedure on National Forests	11
When to make examination and report	11
Record of claims in supervisor's office	11
Kind of evidence necessary	11
Affidavits and statements of witnesses	12
Witnesses in behalf of claimant	12
Form of affidavits	12
Statement by witness to other	12
Hearsay, or opinions, as evidence	12
Affidavits and statements confidential	13
Administering oaths	13
Use of notebook in hearings	13
Reports on claims covering reservoir or power sites	13
Correct record of conditions on homestead claims	13
Favorable report on a homestead claim	13
Favorable preliminary report on a mining claim	13
Recommendations in reports on claims	13
Thoroughness of investigation and completeness of reports	14
Summary of witnesses	14
Closing claims cases	15
Action upon requests for special reports	15
Action upon receipt of notice of final proof or of application for mineral patent	15
Action upon receipt of notice of final proof on entries within proposed eliminations	16
Action upon receipt of notice of final proof on entries under act of June 11, 1906	16
Action upon failure to receive notice from registers and receivers	16
Appearance of Forest officers at final proof	16
Action upon receipt of notice of order for mineral survey	16
Use of mineral surveyor's notes in making examination	17
Examination of mineral claims by mineral examiners	17
Action upon squatters' claims settled after withdrawal of land	17
Action upon squatters' claims settled before withdrawal of land	17
Supervisors' annual report on claims	18
Action upon receipt of notification of extension of public land survey.	18

Claims—Continued. Page.
Procedure in district offices 18
Record of reports 18
Action upon favorable reports 18
Report by mineral examiner 19
Action upon adverse reports 19
Reference of reports to chief of field division 19
Notice to claimant and supervisor of reference of report 19
Reference of cases to assistant to solicitor 19
Action upon request for additional investigation 19
Action by chief of field division 20
Fixing date of hearing 20
Summary of witnesses 20
Representation of Service at hearings 20
Costs incident to hearings 21
Closing claims cases 21
Action upon request from Commissioner or chief of field division for information or special report 21
Action upon request from Solicitor for information or special report 22
Action upon request for report on claim under act of June 11, 1906 22
Action upon receipt of notice of final proof or application for mineral patent 22
Action upon notice of final proof on entries within proposed eliminations 22
Action upon a claims report received with a trespass report 22
Action upon receipt of notification of extension of public-land survey 23
Correspondence with other bureaus 23
Requests to land offices for status of lands 23
District forester's annual report 23
Procedure in Washington office 23
Action upon request from Commissioner of General Land Office for information or report 23
Action upon request from Solicitor for information or report 23
Appeals by Solicitor from decisions of Commissioner 24
Final decision on recommendation to institute contest 24
Action upon receipt of notice of extension of public-land survey 24
Action upon request from district forester for status of lands 24
Settlement 25
Regulations 25
Applications for listing 25
General instructions 27
Purposes of Forest homestead act 27
Authority and discretion of Secretary of Agriculture 27
Areas excepted by the act 27
Opening agricultural lands to entry 27
Preference rights of settlement and entry 28
Survey and notices on unsurveyed land before patent 28
Residence on land covered by entries 28
Additional homestead rights to settlers prior to Jan. 1, 1906 28
Settlement before opening 29
Policy 29
Determination of mineral character of lands listed 29
Legal qualifications of applicant as entryman 29
Small areas listed 29
Areas which can be listed under the act 29
Areas which can not be listed 30
Listing lands affecting a municipal water supply 30
Listing lands within reclamation withdrawals 30
Listing lands within limits of a railroad grant 30
Listing lands within State school land grants 30
Listing lands within an abandoned military reservation 31
Squatters' rights 31
Listing land covered by a claim 31
Review or reexamination 31
Filing in local land office on tracts listed 32
Indian allotments under act of June 25, 1910 32

Settlement—Continued. Page.
Procedure on National Forests 32
Action on applications filed with supervisors 32
Action on applications referred by district forester 32
Preparation of tract book 33
Entry of status on tract book 33
Instructions to examiners and reference of application for report 34
Preparation of report by examiner 34
Consultation with applicant 35
Instructions for survey and maps of land applied for 36
Preparation of field notes 37
Land which should not be listed 37
Applications in conflict with mineral locations 38
Application in conflict with irrigation ditches 38
Photographs 39
Recommendations of examiner 39
Verification of location and submission of report to supervisor 40
Action by supervisor on examiner's report 40
Submission of report to district forester 40
Free special-use permits on lands recommended for listing 41
Record of final action 41
Closing settlement cases 42
Annual report 42
Applications under Indian allotment act 42
Procedure in district office 43
Action on receipt of application 43
Entry of application in tract book 44
Securing status and notation on tract book 44
Notification to applicant of acceptance of application 44
Reference of application to supervisor 44
Action on report of examiner 44
Survey of tract by metes and bounds 45
Free special-use permits 45
Withdrawal of applications 45
Rejection of applications 45
Reinstatement of application on reexamination 46
Notice to applicant of reduced area 46
Notice to applicant of elimination 46
Applications in conflict with mineral locations 46
Applications in conflict with municipal water supply 47
Applications in conflict with reclamation withdrawals 47
Applications in conflict with State school lands 47
Applications in conflict with unperfected claims 47
Applications in conflict with railroad grants 48
Applications in conflict with patented lands 48
Preparation of Secretary's and district forester's letters 48
List numbers and transmittal of papers to Secretary 48
Preference rights 49
Notification to applicant and supervisor of final action by Secretary 49
Closing cases 49
Annual report 49
Procedure in Washington office 50
Action on drafts of listing letters 50
Return of listing letters to district office 50
Action by Secretary 50
Return of papers to district 50
Action on request by district forester for status of land 51
Action on requests for information on status of cases 51
Communications from applicants 51
Action on request for reexamination or review 51
Correspondence from Department of Interior 51
Administrative sites 52
Procedure 52
Selection of sites 52
Rangers' headquarters 52
Amount of land for headquarters and pasture 52
Sites selected and posted 53

Administrative sites—Continued.
Procedure—Continued. Page.
Occupied areas 53
Railroad lands 53
State selections 53
Mineral lands 53
Reclamation withdrawals 53
Relinquishments 53
Purchase of improvements 53
Procedure after selection 53
Sites outside Forest boundaries 54
Closing administrative site cases 55
Cancellation of selections and withdrawals 55
Annual report 56
Water appropriation 56

THE NATIONAL FOREST MANUAL.

CLAIMS.

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C.

By virtue of the authority vested in the Secretary of Agriculture by the act of Congress of February 1, 1905 (33 Stat., 628), amendatory to the act of Congress of June 4, 1897 (30 Stat., 11), I, James Wilson, Secretary of Agriculture, do make and publish the following regulations relating to claims on National Forest lands, the same to supersede all previous regulations for like purpose and to be in force and effect from the 1st day of February, 1912, and to constitute a part of the Use Book.

In testimony whereof I have hereunto set my hand and official seal at Washington, D. C., this 19th day of December, 1911.

JAMES WILSON,
Secretary of Agriculture.

REGULATIONS.

Reg. L–41. No Forest officer shall, except as hereinafter provided, request a homestead entryman to relinquish his claim or suggest for any reason whatsoever that such a course is desirable. If any homestead entryman voluntarily offers to relinquish his claim, the Forest officer may suggest that the relinquishment be transmitted to the local land office, but shall not encourage this to be done. Forest officers who receive by mail relinquishments from claimants must return the same, with the suggestion in every case that if the entryman desires to relinquish he should send the relinquishment to the local land office. No Forest officer shall be a party to a compromise whereby any claims or trespass case is settled by requiring the claimant to relinquish a claim to the United States.

Relinquishments.

When relinquishments are offered which cover lands needed for administrative purposes, and when it is desired to pay the claimant for improvements thereon, a recommendation, accompanied by the reasons in each specific case, shall be submitted to the Forester, who may authorize the purchase of the improvements upon the filing of the relinquishment in the local land office.

U. S. Department of Agriculture,
Forest Service,
Washington, D. C.

The following procedure and instructions are hereby established and issued to take effect February 1, 1912, governing the enforcement of the regulations of the Secretary of Agriculture relating to claims within National Forests.

Henry S. Graves, *Forester.*

Approved December 19, 1911:
James Wilson, *Secretary.*

GENERAL INSTRUCTIONS.

Why claims are examined.

The administration of the National Forests is a duty imposed upon the Secretary of Agriculture by law. In order properly to discharge that duty, it is necessary that he ascertain the status of all lands within the National Forests. The examination of claims within National Forests by Forest officers is therefore made primarily in furtherance of this object. The information thus obtained by the employees of this department is, as a matter of governmental economy, placed at the disposal of the Secretary of the Interior, upon whom rests the responsibility for determining the title to all lands within the National Forests.

It is not the purpose or intent of the department to initiate contests against claimants who have entered lands in the National Forests in good faith to secure a home or for other purposes recognized by law, and in such cases no contest should be initiated upon slight, technical noncompliance with the law. It is the purpose and intent, however, to protect the lands of the United States within the National Forests from acquisition by those who do not seek them for purposes recognized by law, and when it is apparent that an entry or a claim is not initiated in good faith and in compliance with the spirit of the law under which it is asserted, but is believed from the facts to be a subterfuge to acquire title to timber land, or to control range privileges, water, a water-power site, or rights of way; or if it otherwise actively and materially interferes with the essential interests of the National Forest in that locality and is not made or maintained in good faith, a contest should be recommended, even if the technical requirements of the law appear to have been fulfilled. As to mining claims, it should especially be borne in mind that good faith almost necessarily exists when the claims are located on untimbered and unwatered lands which control no means of access or rights of way and are valueless for any occupancy purposes.

Initiation of claims on National Forest land.

No claims can be initiated upon lands within National Forests, nor upon lands withdrawn for National Forest purposes, except under the mining laws, the coal-land laws, and under the act of June 11, 1906 (34 Stat., 233). Claims, however, within a National Forest initiated

prior to the withdrawal of the lands, or their inclusion therein, may be perfected and patents obtained by compliance with the law under which such claims were initiated.

Determination of title to claims. The determination of questions involving title to unperfected claims in National Forests is within the jurisdiction of the Secretary of the Interior.

A valid claim is one initiated in good faith under some act of Congress for the acquisition of title to public lands and continued by use consistent with the character of the claim and necessary for its actual development.

Definition of a valid claim.

It is a fundamental requisite that all claims be initiated in good faith for the purpose contemplated by the law under which they are held. It is bad faith, for instance, to hold a mining or agricultural claim primarily for the timber thereon or to acquire a site valuable for water-power development. Where the land is held for the timber, for a hotel site, saloon site, or other foreign use, and there has been no compliance with the requirements of the law under which the claim was initiated, it may be considered prejudicial to National Forest interests.

It has been held by the Department of the Interior that the withdrawal of lands for and their inclusion in a National Forest constitutes the Government an adverse claimant to the land. No contest or protest against issuance of patent can be considered by the General Land Office unless specific charges are filed within two years after the date of issuance of final certificate, except as to timber and stone entries.

Government adverse claimant to land withdrawn for National Forests.

Reports on claims are confidential. In harmony with the practice of the General Land Office, all reports on claims made by Forest officers must be held as confidential, and may be examined only by duly authorized officers and employees of the Government.

Prospecting will not be interfered with and mineral locations will not be examined prior to application for mineral patent, except where a report is requested by the Department of the Interior or where locations interfere with the administration of the National Forest. No adverse report will be submitted to the Department of the Interior which has not been made by a mineral examiner.

Examinations of mineral claims.

A squatter is one who settled upon a tract of unsurveyed public land with the bona fide intent to acquire title thereto under the homestead law upon public survey of the land.

Squatters who settled upon National Forest land before its withdrawal and who have maintained residence thereon, improvements, and cultivation in good faith since settlement and who are awaiting public survey to make entry have the same right to occupy and enjoy their holdings as homestead entrymen.

Squatters' claims on National Forest land.

Such a settler must make entry of the land claimed within three months from the filing of the township plat in the local land office for the district within which such land is situated. Failure to do so may forfeit his prior right of entry.

No rights can be initiated in this way upon land which has been withdrawn for or included in a National Forest.

A posted notice of claim to a tract of land is not the basis of title, and where actual residence in pursuance of an intention to remain is relied upon as the basis, failure to maintain it may result in the forfeiture of the claim. Squatters may, at their option, await public survey or apply for the examination of their lands that they may be opened to entry under the act of June 11, 1906 (34 Stat., 233).

Free use of timber for development of mining claims.

The locator, or subsequent owner, of a mining claim has a right to the use of sufficient timber from his claim for development purposes. This includes the construction of such buildings as may be necessary as an adjunct to such development and the timber for shafts and tunnels, as well as for fuel in connection with such development. Timber, however, may not be cut from one claim to be used on another claim even if it be of the same group unless its use tends to develop the claim from which it is cut, as well as the one on which it is used, except under free-use permit (Regs. S-19 to S-27).

A mining claimant has no right whatever to cut or remove timber from his claim for sale or for purposes other than the development of the claim, and such removal constitutes trespass (Reg. T-2), except where the removal of the timber reasonably in advance of the mining work is necessary to the development of the claim.

Status of lands after cancellation of claim.

Upon the cancellation of any claim to lands within a National Forest the land involved becomes part of the National Forest, excepting canceled entries under the act of June 11, 1906, and excepting entries canceled and reinstated under the act of March 3, 1911, and excepting canceled entries upon lands which are within the boundaries of the Forest, but which, by the conditions of the proclamation creating it, are not included therein, and unless the claim erroneously covered part of an odd-numbered section within the primary limits of a railroad grant or was canceled by reason of the superior adverse claim of another.

In cases of pending homestead entries, if the entry is not canceled within one year after the expiration of the seven-year period from the date of entry within which no proof has been submitted, the supervisor will report the case to the district forester, who will call this to the attention of the chief of field division. In these cases no report as required by Form 655 will be necessary, as, under the regular Land Office procedure, the local land office officials will notify the entryman to show cause why the entry should not be canceled on account of the expiration of the seven-year period.

Passage of title by patent.

The title of the United States passes with the patent, but its delivery is not necessary, since the title by patent is one of record and it relates back to the initiation of the claim and cuts off all intervening claims.

Passage of title by certification.

If a patent to public land is not expressly required by law, title passes fully by certification (as in the case of a land grant to a State). If, however, the certification is erroneous for any reason, patent may issue on a bona fide entry of record prior to or at the date of such certification.

How patents may be annulled.

A patent, or a final certificate which has been issued for more than two years without the filing of any protest or contest against the entry, can be invalidated only by judicial proceedings, but where a patent fails properly to describe the land it may be surrendered and a new patent will issue to correct the mistake. Proceedings to annul patents must be instituted in a court of competent jurisdiction within six years from the date of patent. The United States will not attack a regularly issued patent without a convincing showing that fraud was committed in procuring it.

Suit to vacate patent.

Suit to vacate a patent will be recommended to the Department of Justice by the Department of the Interior where it appears that the final proof was false or fraudulent; but such suit will not be advised where the evidence is not convincing or where the land is in the hands of an innocent purchaser without notice of the fraud. The right to bring suit in the name of the United States to set aside a patent exists only when the Government has an interest, or where the title has been secured by false and fraudulent evidence introduced to affect the judgment of the Land Office officials, or the Government is under obligation to make the title good.

PROCEDURE ON NATIONAL FORESTS.

When examination and report will be made.

Examinations and reports upon claims will be made by Forest officers under instructions from the Forest supervisors:

(*a*) Upon request from the Commissioner of the General Land Office or the chief of field division;

(*b*) Upon receipt from the local land office of notice of application for patent on a mining claim, or of notice of intention to submit final proof on an agricultural claim;

(*c*) When claimants are making unlawful use of claims, or are holding them for unlawful purposes, or bad faith in connection with them is manifest, or when a trespass occurs upon or under color of a claim.

Record of claim in supervisor's office.

When a claims case is initiated, the supervisor will make an index card and a folder for the case, using a white card for agricultural claims and a blue card for mineral claims. Upon the index cards will be entered the case designation and such notations as may be necessary. The case will be filed alphabetically according to the name of the claim or claimant. The supervisor will then secure the status of the land if necessary and order the examination.

Evidence to support the facts ascertained and reported.

The strength of the report does not rest primarily upon the number of witnesses, but rather upon their credibility and opportunity for knowing the facts. When a report shows adverse facts, it should give the names of two or more disinterested witnesses, by whom the statements can be proved, and should be accompanied by affidavits or statements regarding the facts to which they will testify at a hearing. If affidavits can not be obtained, a statement of facts by each witness (preferably signed by the witness) and his attitude in the premises should be furnished, since incorrect impressions may be obtained from conversations, and a witness's statement on the stand

may vary in a marked degree from the impression which he gave the Forest officer when interviewed. The Forest officers should seek to ascertain only relevant facts about the claim under examination. Facts should be reported whether they are favorable or unfavorable. Whenever possible the report of facts should be corroborated by the testimony of witnesses.

Affidavits and statements of witnesses.

Every affidavit or statement should include the residence and post-office address of the witness. Those who have lived near the claim are preferable to those residing at a distance. Where possible, effort should be made to secure the testimony of reputable members of the community with no interest in the case except to state the facts.

Witnesses in behalf of claimant.

If Forest officers know that witnesses who may be summoned to testify in behalf of the claimant are aware of facts adverse to the claimant but to which they will probably fail to testify, they should report those facts when ascertained to the district forester.

Form of affidavits.

In the preparation of statements care should be taken to see that they do not contain conclusions of the witnesses, but only statements of known facts. For instance, such statements as "Claimant has not resided upon the land in good faith," or "has not shown good faith in his occupancy and improvement of the premises," or in the case of a mining location "has not expended the required amount in labor to entitle him to patent," or "has not used the claim for the purpose contemplated by the mining law," are all conclusions and must be left to the officer of the Interior Department who passes upon the testimony.

The following form of affidavit may be used:

State of ———, County of ———, *ss:*

———, whose post-office address is ———, being duly sworn, deposes and says: (Here follows a concise statement of the facts disclosed by the affiant.)

That I have carefully read the foregoing statement of facts, understand their import, and they are true to the best of my knowledge.

———.
(Signature of the affiant.)

Subscribed and sworn to before me this ——— day of ———, 19—.

———,
(Name of Forest officer.)

———.
(Title of Forest officer.)

Statement by witness to others.

When it is reported that a claimant or a witness made any statement respecting the claim to another, the name of the person to whom such statement was made and his post-office address should appear. When any statement in the report is made upon the authority of another, the name and address of the person from whom the information was obtained should be given.

Hearsay, or opinions, negative evidence.

Hearsay (statements by persons without actual knowledge of the facts) or opinions regarding the claimant's movements, intentions, or actions are valueless. Negative testimony also is of little force. For example, where the affiant states "he did not see the claimant at a certain place" or "on a certain occasion." From the testimony it should appear that the affiant or witness was present and in a position where he must of necessity have seen the claimant if he had been there.

Affidavits and statements will be treated as confidential and will not be produced at a hearing or at any other time unless the witness on the stand departs from the statements formerly made.

Affidavits and statements confidential.

Forest officers who administer oaths must verify the signature of the witness at the time of securing an affidavit or written statement.

Administering oaths.

Since witnesses are called upon to testify in great detail, Forest officers should carefully note all facts in their notebooks at the time of the examination or of their occurrence, and they may testify from such memoranda at the hearing. Only original notes can be used by a witness at the hearing to refresh his memory.

Use of notebook in hearings.

If the land involved in any claim to which title is sought from the United States is available and apparently held as a reservoir or power site, it should be reported with details as to the dimensions and construction of the dam, area of watershed and of reservoir, and volume and fall of water controlled by the site, and particularly as to the interests proposed to be served by such reservoir or power site and respecting the movements and operations of the claimant.

Report on claims covering reservoir or power sites.

In order to have complete information at hand regarding all homestead claims on the Forests, it is important that a record be kept by the district ranger of the condition of all unpatented homestead claims in the district. If this information is compiled from time to time it will not be necessary to depend entirely upon the statements of settlers and local residents when formal reports are called for. Information so obtained should be filed separately by cases in the rangers' files. Supervisors should keep district rangers informed of the location of all claims of this character. When possible, an annual report should be made by the district ranger on each unperfected homestead entry in his district. This report should be placed in the supervisor's files and should not be forwarded to the district forester. Reports should include material facts and give specific dates regarding residence and improvements and should also include the names and addresses of witnesses who are familiar with the facts.

Correct record of condition on homestead claims.

A report on a homestead claim will be considered favorable when it shows that the claim is apparently held in good faith and in accordance with the terms of the law under which it is asserted.

What constitutes a favorable report on a homestead claim.

A preliminary report on a mining claim will be considered favorable when it shows (*a*) that the claim is apparently held in good faith for the purposes authorized by law; (*b*) that the expenditure has been made on the improvement work as required by law; and (*c*) that the issuance of patent will not prejudice the interests of the United States.

What constitutes a favorable preliminary report on a mining claim.

A report upon an agricultural claim will contain a recommendation whether or not proceedings should be instituted against the claim to determine its validity or whether the claim should be patented. No recommendation for or against patenting will be made in a preliminary report upon a mineral claim. In the case of an unfavorable report by

Recommendations in report on claims.

a mineral examiner the recommendation should be made by such officer that the location or entry "be declared invalid" or "canceled," and the report should specify the charges or reasons for making the adverse recommendations. Where the report is favorable, the recommendation should be that "patent issue."

Thoroughness of investigation and completeness of report.

A report upon a claim, when received by the supervisor, should be carefully scrutinized to insure the thoroughness of the investigation and the completeness of statement. If, for any reason, it appears that the report is erroneous or incomplete, the supervisor will return it to the Forest officer who made the examination, indicating its defects and requiring its correction.

Summary of witnesses after hearing is ordered.

When requested by the district assistant to the solicitor, the supervisor will, whenever practicable, instruct a Forest officer to see the witnesses for the Government and ascertain whether there is likely to be any change in their testimony from that indicated in the report on the case. The reply of the supervisor will be addressed to the district assistant to the solicitor through the district forester. Should it be found that any witness will be unable to attend the hearing, that fact will be reported to the district assistant to the solicitor that steps may be taken to secure a deposition. When requested by the district assistant to the solicitor, the following form will be prepared by the supervisor, who will transmit two copies to the district assistant to the solicitor. The summary must bear the case designation and the date of the report to which it relates. It must be in the hands of the district assistant to the solicitor not less than two weeks prior to the date set for the hearing.

The summary of witnesses will be submitted in the following form:

Witnesses to sustain charge No. 1:

Name.	Occupation.	Residence.[1]		Post office, town, and county.	Affidavit secured.
		Section, township, and range.	Miles from town, town, and county.		

Witnesses to sustain charge No. 2:

Witnesses to sustain charge No. 3:

_____,
Forest Supervisor.

[1] To be filled in, except where witness lives in a town.

Closing claims cases.

When the report is favorable to the patenting of the claim, the case will be closed when the supervisor is notified by the district forester that a favorable report has been forwarded to the chief of field division.

When the report forwarded to the chief of field division is adverse to the patenting of the claim, the case will be closed when the supervisor is notified by the district forester that the case has been closed in the General Land Office.

Action upon request from Commissioner, chief of field division, or Solicitor, for special reports.

Requests from the Commissioner or the chief of field division of the General Land Office or from the Solicitor for special reports on claims within National Forests will be received by the supervisor by reference from the district forester. The supervisor will make the necessary entries in his records and direct an examination and report by a Forest officer. The report will be prepared in accordance with the outline on Form 654 or 655, and will be made with an original and four copies. One copy will be retained by the Forest officer, one by the supervisor, and the original and two copies will be forwarded to the district forester, together with the original and two copies of all affidavits and the original letter from the Commissioner, chief of field division, or the Solicitor. At the top of the first page of the report a reference to the letter of request will be made by indorsement to identify the report with the related papers in the file of the General Land Office. The indorsement will be in the following form: "Reference is made to the Commissioner's letter ('N' B. R. G. Oakland 03108) dated January 18, 1909," or "Reference is made to notice of application to submit final proof on ———, 1911."

Action upon receipt of notice of final proof or of application for mineral patent.

In accordance with the instructions of the Secretary of the Interior, registers and receivers will send to supervisors concerned copies in triplicate of notices of final proof and of applications for mineral entry. A copy of the notice in each case must be returned to the register and receiver prior to the date advertised for submission of final proof. It is desired that reports be obtained by the supervisor prior to the return of the notice, and notices will be held whenever possible until reports have been received. When it is evident to the supervisor that because of climatic conditions an early examination and report can not be made, he will return the notice to the register and receiver with an indorsement giving the date approximately when the report will be sent to the district forester.

This indorsement will be upon the face and at the bottom of the notice and will be dated and signed by the supervisor. In accordance with the circumstances of the case the indorsement will be as follows: (*a*) "No objection at this time to issuance of final certificate—right in law to future contest not waived should facts develop warranting charges; report submitted (or will be submitted) to the district forester ———, 19—;" (*b*) "Protest; report submitted (or will be submitted) to the district forester ———, 19—;" (*c*) "The land involved is not within the boundaries of a National Forest, and no report will be made by the Forest Service;" (*d*) "The land involved is located within a proposed elimination from ——— National Forest, and no report will be made by the Forest Service;" (*e*) "This entry was initiated under the act of June 11, 1906, and no report will be

made by the Forest Service, as the Department of Agriculture has no authority to examine and report on this class of claims." The two remaining copies of the notice will be completed by entering thereon the indorsement made upon the copy returned to the register and receiver and will be sent at once to the district forester.

If the report has not been already submitted the supervisor will then instruct a Forest officer to make an examination and report. The instructions, whether by letter or by memorandum, will give the date when final proof will be submitted, the names and addresses of the witnesses given in the notice, the indorsement made on the notice, and the date the notice was returned to the local land office. A copy of this letter or memorandum will be retained in the supervisor's file as a record of the final proof notice. The report will be made in accordance with the outline on Forms 654 and 655, with original and four copies. One copy will be retained by the Forest officer, one copy by the supervisor, and the original and two copies will be sent to the district forester, accompanied by the original and two copies of all affidavits. At the top of the first page of the report reference to the notice of final proof will be made by indorsement. The indorsement will give the date of final proof, the indorsement made thereon, and the date thereof, which will be the date of the return of the notice to the local land office.

Action on receipt of notice of final proof on entries within proposed eliminations.

Before returning to the register and receiver the notice of final proof on entries within proposed eliminations with the indorsement (*d*) thereon the supervisor will send the notice to the district forester to ascertain whether the elimination has been approved. If the proposed elimination has been approved, no examination or report will be made. A memorandum of the notice and the indorsement thereon will be filed, and the two copies of the notice with the indorsement entered thereon will be sent to the district forester.

Action upon receipt of notice of final proof on entries under the act of June 11, 1906.

On notice of final proof on entries under the act of June 11, 1906, the notice will be returned to the register and receiver with the appropriate indorsement (*e*) and no examination or report will be made. The other two copies of the notice with the indorsement entered thereon will be sent to the district forester. Before returning the notice to the register and receiver a memorandum of the notice and the indorsement thereon will be made and filed with the settlement case to which it relates.

Failure to receive notice from registers and receivers.

In cases where the supervisor fails to receive notice of final proof or notice of application for mineral patent at the time of or soon after the beginning of the period of publication, he will report the fact to the district forester for appropriate action.

Forest officers will not appear at final proof.

Forest officers will not appear at final proof to cross-examine claimants or their witnesses.

Action upon receipt of notice of an order for mineral survey.

Notice of an order for survey of a mineral claim is not a request from the Interior Department for a report, and no report on the claim will be made at the time of this survey unless the claim actually interferes with the administration of the National Forest. Upon receipt

of notice of an order for mineral survey, which notice will contain the name and address of the mineral surveyor and of the claimant and the name, survey number, and approximate location of the claim, the supervisor will when necessary instruct a Forest officer to be present when the survey is made. The Forest officer will make and submit a memorandum, to be filed for future reference, of the boundaries, the expenditure, and the development work, to which the surveyor will certify, and of the cuts, shafts, and tunnels on the claim.

Copies of mineral surveyor's notes for use in making examination.

When a mineral claim is to be examined, the supervisor will send the Forest officer who is to make the examination a copy of the memorandum, or may when necessary secure from the local land office a copy of that part of the mineral surveyor's field notes relating to development work and improvements. If they are not available, the district forester may secure a copy from the surveyor general's office.

Examination of mineral claims by mineral examiners.

When the district forester has determined from the facts presented in the preliminary report on a mineral claim that the conclusions (*a*) and (*b*) are not warranted, and an examination by a mineral examiner has been ordered, the claimant will be notified by the supervisor of the date the examination will be made and will be requested to be present or be represented. The report of the mineral examiner will be submitted to the Forest supervisor and will be acted upon in accordance with the procedure followed in all other claims reports.

Action upon squatters' claims where claimants settled after the withdrawal of the land for National Forest purposes.

Occupancy of the land by squatters after its withdrawal for National Forest purposes is trespass, and the supervisor will act in accordance with the procedure prescribed under "Occupancy Trespass," unless the claimant was occupying the land on January 1, 1906, in which case the claimant may apply within a reasonable time for the listing of the land under the act of June 11, 1906 (see "Settlement," p. 25).

Action upon squatters' claims where claimants settled before the withdrawal of the land for National Forest purposes.

When the claimant settled on the land prior to its withdrawal for National Forest purposes and is apparently complying with the requirements of the homestead law, no action will be taken by Forest officers, since the claimant may at his own discretion await an extension of the public-land survey, or may apply for the listing of the land under the act of June 11, 1906, before making entry.

When the claimant settled on the land prior to its withdrawal for National Forest purposes, but has failed to comply with the requirements of the homestead law, no action will be taken by Forest officers prior to the approval of the plat of survey unless the claim interferes with Forest administration, in which case the supervisor will order an examination and report in accordance with the procedure herein prescribed for making reports on claims.

When the plat of survey has been approved by the Commissioner of the General Land Office, the supervisor will protest the squatter's application for entry if the requirements of the homestead law have not been complied with. The protest should be filed in the local

land office prior to the date when entries can be received, and will be in the following form:

DEADWOOD, S. DAK.,
December 20, 1910.

REGISTER AND RECEIVER,
Rapid City, S. Dak.

GENTLEMEN: Since plat of survey of T. 20 N., R. 15 E., B. H. M., has been approved by the Commissioner of the General Land Office and entries will be received February 15, 1911, the Forest Service protests against the acceptance of entry from John Jones for NW ¼ sec. 9, T. 20 N., R. 15 E., B. H. M., on the grounds that John Jones has not maintained continuous residence on and cultivation of the land in good faith as required by law (or has wholly abandoned the land for more than six months last past). This land was withdrawn for National Forest purposes December 3, 1904, and was included in the Black Hills National Forest February 1, 1905.

A detailed report will be forwarded to the district forester.

Very truly yours,

_____,
Forest Supervisor.

The supervisor will then order an examination and report in accordance with the procedure herein prescribed for making reports on claims.

After a squatter's claim has been declared invalid by the Department of the Interior further occupancy of the claim by the claimant is trespass, and the supervisor will, in such case, report the facts to the district forester with recommendations for the institution of trespass proceedings.

Supervisor's annual report on claims.

Supervisors will include in their annual statistical report (Form 446) to the district forester, due on July 15, a statement of the claims work on their Forests for the preceding fiscal year.

Action upon receipt of notification of extension of public-land survey.

When notification of the extension of the public-land survey over lands within a National Forest is received by reference from the district forester, a record of the extension will be made in the tract book.

PROCEDURE IN DISTRICT OFFICE.

Record of reports.

All reports on claims made by Forest officers will be submitted in triplicate to the proper district forester. Each case will be filed in a separate folder under the case designation. An index card will be used for each case, upon which will be entered the case designation and such notations as may be necessary—a white card will be used for agricultural claims and a blue card for mineral claims.

Action upon favorable reports.

If upon a review of the report the district forester is of the opinion that no contest should be initiated, he will transmit the report direct to the proper chief of field division of the General Land Office with an indorsement of "No protest," except that in the case of claims under the mining laws which have not been examined for mineral discovery the notice of "No protest" will be by letter from the district forester to the chief of field division instead of by the transmittal of an indorsed report. In such cases the letter will be in the following form:

CHIEF OF FIELD DIVISION,
General Land Office, Portland, Oreg.

DEAR SIR: The Forest Service will enter no protest against the issuance of patent for Mineral Survey No. 2444, Mineral Application No. 02588, Coeur d'Alene Land

District, Wampum Mining Co., claimant for the Wigwam Lode, within the Coeur d'Alene National Forest.

Reference is made to letters ("N" H. C. F.) of the Commissioner of the General Land Office to the Forester, dated May 7 and September 20, 1910, respectively, requesting report on this case.

Very truly yours,

———— ————,
District Forester.

If the chief of field division is of opinion that no hearing is necessary, he will, in accordance with the regulations of the Interior Department, transmit the report or the letter "No protest" to the Commissioner of the General Land Office with his recommendation.

Report by mineral examiner.

When upon a review of the facts presented in a preliminary report on a mineral claim it is determined that the conclusions do not warrant a favorable report, the district forester will order an examination and report by a mineral examiner. No other action will be taken upon the preliminary report, and the report of the mineral examiner, when received, will be acted upon in accordance with the procedure followed in other reports from Forest officers.

Action upon adverse reports.

If the district forester is of the opinion that a contest should be instituted, he will refer the report to the district assistant to the solicitor for examination as to the law and the sufficiency of the evidence. Upon the request of the district assistant to the solicitor the district forester will order such additional investigation or secure such additional evidence as the district assistant to the solicitor may require.

If the district forester is informed by the district assistant to the solicitor that, in his opinion, no contest should be instituted, and if the district forester is still of the opinion that one should be instituted, he will refer all the papers in the case to the Forester.

When a report has been found to be sufficient and is returned by the district assistant to the solicitor with a draft of the charges against the claim, the district forester will transmit the report directly to the chief of field division with recommendation that a contest be instituted upon the charges indicated.

Reports referred to chief of field division.

In every case the original and one copy of the report and the original and one copy of all affidavits and statements will be transmitted to the chief of field division.

Notice to claimant and supervisor of transmission of report to chief of field division.

When a report is transmitted to the chief of field division, the district forester will at once notify the claimant of the fact and the date of transmission, and whether the report was favorable or unfavorable, with no further detail. A copy of the letter to the claimant will be sent to the supervisor.

Case referred to district assistant to the solicitor.

When a report has been submitted to the chief of field division with recommendation that a contest be initiated, the district forester will refer all the papers in the case to the district assistant to the solicitor.

Additional investigation requested by chief of field division.

Should the chief of field division find a report, in his opinion, insufficient to warrant adverse proceedings, he will, in accordance with the regulations of the Department of the Interior, return it directly to the district forester, who will issue the necessary instructions to have the additional investigation made and who will submit to

the chief of field division such supplementary reports as may be required.

Action by chief of field division.

The regulations of the Department of the Interior provide that if, after receiving from the district forester the complete report, the chief of field division is of opinion that adverse proceedings should be ordered, he will transmit the report, together with the district forester's recommendations, to the Commissioner of the General Land Office with a recommendation that a hearing be ordered upon the charges suggested by him, and if after receiving a complete report and recommendations from the district forester for adverse proceedings, the chief of field division is of opinion that a hearing is unwarranted, he will transmit the report and the district forester's recommendation and his own recommendations to the Commissioner for decision. Should the Commissioner approve the recommendations of the chief of field division, he will notify the Solicitor of the Department of Agriculture.

Fixing date of hearing in local land office.

Upon order or application for hearings upon reports covering lands or claims within a National Forest, duplicate notices thereof are sent by the register and receiver to the chief of field division and the proper district assistant to the solicitor. Before setting date for the hearing in any such case, the chief of field division will confer with the proper district assistant to the solicitor and thereupon suggest to the register and receiver a date for hearing and the names of witnesses to be subpœnaed upon behalf of the Government. In the event the chief of field division and the district assistant to the solicitor are unable to agree as to the date of hearing, the matter will be referred by the chief of field division to the Commissioner of the General Land Office, who will issue the necessary directions.

Summary of witnesses after hearing has been set.

After the date for hearing in a case has been set, the district assistant to the solicitor will, when necessary, instruct the supervisor to interview the witnesses and return the summary of witnesses as described under "Procedure on National Forests." The supervisor will thereafter instruct Forest officers to secure such additional evidence and supply such additional information as may be required by the district assistant to the solicitor.

District assistant to the solicitor will represent Service at hearings.

In all hearings affecting lands or claims within a National Forest, the chief of field division or a special agent of the General Land Office and the district assistant to the solicitor will be entered of record as appearing on behalf of the Government. The chief of field division or special agent of the General Land Office acting as attorney for the Government in any such case will control the Government's side of the case in any matter as to which counsel are unable to agree, subject to any direction that may be given by the Commissioner of the General Land Office, in case the matters of difference are of such importance as to be presented to him for action. In all Government cases before registers and receivers involving lands or claims within a National Forest, the chief of field division and the district assistant to the solicitor will each be served with notice of all appeals, motions, orders, and decisions required to be noted under the rules in cases of private contests.

Costs incident to hearings.

Costs incident to hearings before registers and receivers in Government cases involving lands or claims within a National Forest will be paid under rules now in force. Expenses incident to appeals will be paid by the Department of Agriculture, except that, where feasible, chiefs of field divisions may give aid in office work in preparation of papers, briefs, etc.

Closing claims cases.

When the report is favorable to the patenting of the claim, the case will be closed when the report is forwarded to the chief of field division.

When the report is adverse to the patenting of the claim, the case will be closed when notice is received from the Commissioner that the case is closed on the records of the General Land Office. This notification will be received through the district assistant to the solicitor, with the return from him of all papers in the case. The copy of the Commissioner's notice and the decision will be filed with the papers in the case and the supervisor will be notified by letter or by a copy of the decision.

Action upon request from Commissioner or chief of field division for information or for special reports.

Replies to letters from the Commissioner of the General Land Office received by reference from the Forester, or letters from the chief of field division of the General Land Office requesting information relating to claims, will be by letter from the district forester to the chief of field division.

If the request is for a report which has already been submitted to the Interior Department, the district forester will write the chief of field division with appropriate reference to the letter of request and give the date upon which the report was submitted.

When it is necessary to secure the information from the supervisor, or when a special report is requested, the letter of request will be referred by stamped indorsement to the supervisor for investigation and report. Before referring the letter a memorandum will be made, showing the title, file number, initials, and date of the letter of request, the number and kind of entry, and the name of the claimant or of the mineral claim. This memorandum will be filed in the district office and will constitute the record until the supervisor's report is received. Follow-up cards (Forms 326 and 327) will be made, and the post card (Form 326) will be sent with the letter of request to the supervisor. No mere acknowledgment of the receipt of such requests will be made.

If the district forester is of opinion or is informed by the supervisor that the report can not be submitted within the time specified in the letter of the Commissioner, he will inform the chief of field division, stating the reason for the delay and giving a date when the report will be transmitted. Two carbon copies of the letter to the chief of field division will be sent to the supervisor, one for his files and one for the information of the Forest officer who will make the report.

When the report is received from the supervisor, it will be acted upon as herein provided and forwarded to the chief of field division.

In all cases letters from the district forester to the chief of field division, submitting reports or making recommendations relating to claims, will be prepared with two extra carbon copies, one to accompany the original letter to the chief of field division and the other to be sent to the supervisor concerned for his information.

Action upon requests from the Solicitor for information or for special reports.

When the request is from the Solicitor and is received through the Forester, the same procedure will be followed as upon requests from the Commissioner of the General Land Office, except that the letter giving the information or transmitting the report will be addressed to the Solicitor and will be prepared by the district forester for the signature of the Forester. No copies of such letters need be sent to the chief of field division. When the request is from the Solicitor and is received through the district assistant to the solicitor, the information will be furnished to the assistant to the solicitor for transmission to the Solicitor.

Action upon requests for report on a claim under the act of June 11, 1906.

If the request is for a report on a claim initiated under the act of June 11, 1906, the letter in reply will be in the following form: "The Sundance 01718 'C' E.R.B. letter of January 15, 1911, from the Commissioner to the Forester, requesting report on this case, is received. As the entry to the land involved was initiated under the act of June 11, 1906, and as the Department of Agriculture has no authority to examine and report upon this class of claims, no report will be sent to you."

Action upon receipt of notice of final proof or application for mineral patent.

When a copy of local land office notice of final proof, or application for mineral patent, is received from the supervisor, one copy will be forwarded to the chief of field division with rubber-stamp reference signed by the district forester. When the copy of the notice is indorsed by the supervisor that report has been submitted to the district forester, the latter will verify the statement from his records, and if the report has been submitted (or will be submitted) by him to the chief of field division, he will inform the latter by further indorsement on the notice of the date it was or will be submitted. If the report was submitted under a former procedure to the Commissioner of the General Land Office, the district forester will inform the chief of field division by indorsement on the notice of the date it was submitted.

Action on notice of final proof on entries within proposed eliminations.

When the district forester receives a request from the supervisor for information or instructions regarding the indorsement to be made upon a local land office notice of final proof on entries within proposed eliminations, he will, if necessary, secure the information from the Forester before instructing the supervisor. If the indorsement, "The land involved is located within a proposed elimination from the National Forest, and no report will be made by the Forest Service," should be made, the district forester will instruct the supervisor accordingly, and when the indorsement has been made by the supervisor and two copies of the notices have been returned to the district forester one copy will be forwarded to the chief of field division by stamped reference signed by the district forester.

Action upon a claims report received with a trespass report.

When a claims report is received with a trespass report, a memorandum will be made showing the action, if any, upon the claims report. If it be decided that the claim should not be protested, the trespass report with the claims report and the memorandum will be referred to the district assistant to the solicitor, and no fur-

ther action will be taken regarding the claim. If it be decided that the claim should be protested, the report on the claim will be detached from the trespass report. The trespass report, accompanied by a copy of the claims report and the memorandum of action taken, will then be referred to the district assistant to the solicitor. Action upon the report on the claim will then be taken in accordance with the claims procedure.

Action upon receipt of notification of extension of public-land survey.

Notification of the extension of the public-land survey over lands within a National Forest will be received by reference from the Forester, and after a record of the extension has been made in the district office the notification will be sent to the supervisor concerned.

Correspondence with other bureaus.

By authority of the Secretary of Agriculture the Forester may correspond directly with chiefs of other bureaus in regard to purely routine matters that are not legal in character. Such correspondence, if prepared by the district forester, will be for the signature of the Forester.

Request to local land office and General Land Office for status of lands.

Whenever status of lands is required, it will be obtained, if possible, from the local land office. When necessary to secure status from the public land records in Washington, the district forester will use Form 31, changing the words "Register and Receiver" to "Forester." No letter will be used in making such requests to the Forester, but any explanation may be made, if necessary, by an accompanying memorandum. The request will be returned with the status report (Form 301).

District forester's annual report.

Annually on August 1 district foresters will submit to the Forester on standard atlas pages a report on claims. The report will be in the form prescribed in advance by the Forester.

PROCEDURE IN WASHINGTON OFFICE.

Action upon request from the Commissioner of the General Land Office for information or special reports.

No mere acknowledgment will be made of a letter of request from the Commissioner of the General Land Office for information or for a special report on a claim, but the letter of request will when necessary be referred by stamped indorsement to the proper district forester. Before forwarding the request a memorandum will be made and filed showing the title, file number, initials, and date of the letter of request, the number and kind of entry, and the name of the claimant or of the mineral claim.

Action upon request from the Solicitor for information or special report.

No mere acknowledgment will be made of a request from the Solicitor for information or for a special report in regard to a litigated claims case, but the request and any accompanying papers will when necessary be referred by stamped indorsement to the proper district forester, except when the circumstances may require a letter of instructions. Before forwarding the request a memorandum will be made showing: The date and subject of the Solicitor's request, and the date it was referred to the district forester; the number and kind of entry, and the name of the claimant or of the mineral claim. If the Solicitor's request is accompanied by

a copy of a letter from the Commissioner of the General Land Office, the memorandum will also show the file number, initials, and date of the Commissioner's letter. These memoranda will be used as promise cards, and when the reply to the Solicitor, prepared by the district forester for the signature of the Forester, is received the memorandum relating to it will be filed with the carbon copy of the reply

Appeals by Solicitor from decisions of the Commissioner of the General Land Office.

When a chief of field division, after receiving from a district forester a complete report and recommendation for adverse proceedings on a claim, has submitted to the Commissioner of the General Land Office a recommendation that a hearing is unwarranted, and when the Commissioner has approved the recommendation of the chief of field division, the Solicitor of the Department of Agriculture is notified of the decision. The regulations of the Department of the Interior provide that notice of every decision of the Commissioner of the General Land Office be given to the Solicitor of the Department of Agriculture, who may appeal from any such decision, and who may take other like action in the same manner as a private contestant; but the Department of Agriculture is not required to take formal appeals from the decisions of the registers and receivers.

Final decision on recommendation to institute a contest.

When a case is submitted to the Forester by the district forester after a disagreement between the district forester and the district assistant to the solicitor as to whether a contest should be instituted, the Forester will consult the Solicitor, and if necessary the case will be submitted to the Secretary of Agriculture for his decision. When a final decision is rendered, the Forester will return all the papers in the case to the district forester, with notice of the decision and appropriate instructions.

Action upon receipt of notification of extension of public-land survey.

Notification from the Commissioner of the General Land Office that he has approved the plat and field notes of the surveyor general of an extension of the public-land survey over lands within a National Forest will be forwarded by stamped indorsement to the district forester concerned.

Action on request of district forester for status of lands.

When request on Form 31 for report on status from the public-land records in Washington is received from the district forester, the request will be returned with the report (Form 301) without a letter of transmittal, but if any explanation is necessary it will be by memorandum referred by rubber-stamp indorsement.

SETTLEMENT.

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C.

By virtue of the authority vested in the Secretary of Agriculture by the act of Congress of February 1, 1905 (33 Stat., 628), amendatory to the act of Congress of June 4, 1897 (30 Stat., 11), and by the act of Congress of June 11, 1906 (34 Stat., 233), I, James Wilson, Secretary of Agriculture, do make and publish the following regulations for settlement upon National Forest lands, the same to supersede all previous regulations for like purposes and to be in force and effect from the 1st day of February, 1912, and to constitute a part of the Use Book.

In testimony whereof I have hereunto set my hand and official seal, at Washington, D. C., this 19th day of December, 1911.

JAMES WILSON,
Secretary of Agriculture.

REGULATIONS.

Reg. L–50. The act of June 11, 1906, authorizes the Secretary of Agriculture to examine and ascertain the location and extent of lands within permanent or temporary National Forests which are chiefly valuable for agriculture, and which, in his opinion, can be occupied for agricultural purposes without injury to the National Forests and which are not needed for public purposes, to the end that they may be listed with the Secretary of the Interior for opening to settlement and entry under the act and homestead laws. The examination and listing of such lands are optional with the Secretary of Agriculture and may be made either independently or on application.

Applications for listing.

Reg. L–51. Applications for the examination and listing of lands under the act of June 11, 1906, must be in writing, must be dated, and must be signed by the applicant. If the tract applied for is covered by a public-land survey, it must be described by reference to subdivisions, section, township, and range within which it is located. If the tract is not covered by a public-land survey, it must be described by reference to natural objects, streams, or improvements with sufficient accuracy to identify it. Applications must be filed with the district forester of the district in which the tract applied for is situated. An application which is not in the form prescribed above will be returned to the applicant for correction. Priority of application will be determined by the order in which applications are filed with the district forester in the form prescribed herein.

Reg. L–52. The Secretary of Agriculture will not consider the qualification under the homestead laws of applicants for the examination and listing of lands under the act of June 11, 1906.

Reg. L–53. The rejection by the district forester of an application for the examination and listing of lands under the act of June 11, 1906, shall be final unless the applicant shall within 30 days after receipt of the district forester's decision, in which will be stated the grounds for such rejection, file with the district forester a petition for review of such decision by the Forester. The affirmance by the Forester of the district forester's decision shall be final unless within 60 days after notice of such affirmance the applicant shall file with the Forester a petition for review of his decision by the Secretary of Agriculture. Every petition for review provided for in the regulation shall state the grounds upon which it is based, and shall be accompanied by a full, clear, and succinct statement of all the material facts in the case, together with such argument as the petitioner may care to submit.

Reg. L–54. All applications by Indians for allotments of lands within the National Forests under section 31 of the act of June 25, 1910 (36 Stat., 853), which are submitted to the Secretary of Agriculture in order that he may determine whether the land applied for is more valuable for agriculture or grazing than for the timber found thereon must be made in the form prescribed by the regulations of the Secretary of the Interior governing Indian allotments on National Forests.

U. S. Department of Agriculture,
Forest Service,
Washington, D. C.

The following procedure and instructions are hereby established and issued to take effect February 1, 1912, governing the enforcement of the regulations of the Secretary of Agriculture relating to settlement in National Forests.

Henry S. Graves, *Forester.*

Approved December 19, 1911.
James Wilson, *Secretary.*

GENERAL INSTRUCTIONS.

Purposes of the National Forest homestead act.

The act of June 11, 1906 (34 Stat., 233), known as the National Forest homestead act, provides for the acquisition by qualified entrymen of agricultural lands within National Forests. This act is in effect an extension of the general provisions of the homestead laws to agricultural lands within National Forests with the essential difference that the land must be classified by the Secretary of Agriculture as chiefly valuable for agriculture, and that no commutation is allowed.

Authority and discretion of the Secretary of Agriculture.

This act authorizes the Secretary of Agriculture, in his discretion, to examine and ascertain, upon application or otherwise, the location and extent of lands, both surveyed and unsurveyed, in National Forests or in temporary withdrawals for National Forests, chiefly valuable for agriculture, which may be occupied for agricultural purposes without injury to the National Forests or public interests. He is authorized to list and describe such lands by metes and bounds or otherwise, and to file such lists and descriptions with the Secretary of the Interior for opening to entry in accordance with the provisions of the homestead law and the act.

Areas excepted from the act.

The act does not apply to National Forest lands in Santa Barbara and San Luis Obispo Counties in California, nor to parts of Lawrence and Pennington Counties in South Dakota, except where the land was settled upon or occupied prior to January 1, 1906.

Opening agricultural lands to entry.

Agricultural lands when listed by the Secretary of Agriculture are opened by the Secretary of the Interior to homestead entry, in tracts not exceeding 160 acres in area, at at the expiration of 60 days from the filing of the list in the local land office. Notice of the filing of the list is posted in the local land office and is published for a period of not less than four weeks in a local newspaper.

Preference rights of settlement and entry.

The act provides that the person upon whose application the land is examined and listed, if a qualified entryman, shall have the preference right of entry, unless there was a bona fide settler on the land prior to January 1, 1906, who has not abandoned the same, in which event the settler, if a qualified entryman, shall have the preference right. To exercise this preference right, application to enter must be filed in the local land office within 60 days after the filing of the list in that office.

Survey and notices on unsurveyed land before patent.

The law also provides that any entryman desiring to obtain patent to any lands described by metes and bounds, entered by him under the provisions of this act, shall, within five years of the date of making settlement, file with the required proof of residence and cultivation a plat and field notes of the lands entered, made under the direction of the United States Surveyor General, showing the boundaries of such lands, which shall be marked by monuments on the ground, and by posting a copy of such plat, together with a notice of the time and place of offering proof, in a conspicuous place, on the land embraced in such plat during the period prescribed by the law for the publication of his notice of intention to offer proof; and that a copy of such plat and field notes shall be posted in the local land office for a like period.

Under a recent cooperative plan effected between the Department of the Interior and the Department of Agriculture the original listing survey may be made, if desired by the applicant, under the direction and supervision of the surveyor general by a forest officer designated by him. Such survey, when made, will be accepted as the final survey for the issuance of patent, and will be without expense to the applicant except a nominal sum required for clerical work in the surveyor general's office.

Residence on land covered by entries.

While the patenting of lands under the commutation provisions of the homestead laws is prohibited on entries made under the act of June 11, 1906, entrymen shall, upon final proof, have credit for the period of their actual residence upon the land covered by their entries. The Secretary of the Interior by letter of January 12, 1910, ruled that the provision of section 1 of the act of June 11, 1906, which allows settlers credit for residence on lands covered by their entries, has reference to settlement initiated prior to the date of the act only, and that residence under permit issued by the Forest Service prior to the opening of the lands to settlement in the manner prescribed by the act is not occupancy of lands within the meaning of the homestead law and will not be credited as a part of the residential period required to secure patent.

Additional homestead rights given to actual settlers prior to Jan. 1, 1906.

The act also gives an additional homestead right of entry upon lands which have been listed as chiefly valuable for agriculture, to settlers upon such lands on January 1, 1906, who have already exercised or lost their homestead rights, but who are otherwise competent to enter under the homestead laws. Such entrymen must comply with the provisions of the homestead law and must in addition pay $2.50 per acre for the lands entered.

Settlement before opening is trespass.

This act does not authorize any settlements within National Forests, except upon lands which have been opened to settlement under its provisions.

Policy.

Lands within National Forests will be put to their highest use. Those which are more valuable for agriculture than for forest purposes or for public or administrative use, and that are not essential for a reservoir site and that have no value for power purposes, will be opened for settlement and agricultural development by homemakers, under the provisions of the act of June 11, 1906. Such permanent settlers are a direct benefit to forest administration and are desired, but the acquisition of timberlands or other natural resources for speculative purposes will not be allowed.

Mineral character of lands listed not determined by the Secretary of Agriculture.

The Secretary of Agriculture does not undertake to ascertain whether lands are mineral in character which are described and listed by him as chiefly valuable for agriculture. Any contests between mineral claimants and applicants for entry involving lands which have been listed under this act will be decided by the Secretary of the Interior.

Legal qualifications of applicant as entryman.

The legal qualifications of an applicant as an entryman on lands listed under this act will not be passed upon by the Secretary of Agriculture. Such qualifications will be passed upon by the register and receiver, subject to review by the Commissioner of the General Land Office and the Secretary of the Interior, when application for entry is made at the local land office after the land is opened to entry.

Small areas listed.

If any of the land applied for under the act is found to be chiefly valuable for agriculture, the application will not be rejected in its entirety because the portion of the land that can be listed as agricultural seems too small to warrant the applicant exercising his homestead right upon it or too small to enable him to make a livelihood exclusively from its cultivation. In such a case the applicant will be given the opportunity to state in writing whether he desires to exercise his homestead right on the small area, and if it is his desire, the land chiefly valuable for agriculture, even if only a few acres in extent, will be listed; otherwise his application will be rejected and the case closed. If, however, the tract is subsequently listed, on the application of another, or otherwise, all the facts in connection with the first application will be set forth in the listing letter.

Areas which can be listed on application and entered under the act.

While the Secretary of Agriculture may in his discretion list agricultural lands of any area within National Forests, such lands will be opened to entry by the Secretary of the Interior in contiguous tracts not exceeding 160 acres in area and not exceeding 1 mile in length. Any tract not exceeding 160 acres contained within a square mile, the sides of which extend in cardinal directions, is within the meaning of the phrase "one mile in length." The preference right of entry secured by any applicant relates only within these limitations to the particular tract covered by his application.

Areas needed for public use will not be listed.

Land which will be required for the use and protection of the public in general, or of the National Forests, or that are essential for a reservoir site, or valuable for power purposes, will not be listed under the act; but every effort will be made to effect an equitable adjustment of any conflict between the interests of the public and those of an applicant.

When agricultural land applied for includes a roadway used by the public, except a highway established before the creation of the National Forest under section 2477, Revised Statutes, or which may be needed in the future for the use of the public, or for the removal of timber on the National Forests, it will be specifically excluded from the area listed.

Section 2477 of the Revised Statutes of the United States provides that: "The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted." Hence, if a highway is constructed under this statute before the withdrawal of the land for a National Forest, a subsequent patentee takes the land subject to the right of the public to use the highway, the easement not being destroyed until there is a total abandonment on the part of the public, and it is not necessary to specifically mention the highway in the list. If the highway was constructed after the land was withdrawn from entry for a National Forest, and under a permit issued by the Forest Service, no easement would be obtained, and it is necessary to exclude the highway from the area listed. When the land applied for entirely surrounds a spring or watering place that is necessary in the administration of the Forest or for use by permittees of the Department, or by the public, so much of the land applied for will be excluded as is necessary to secure such uses. A tract which has been withdrawn or selected and posted for a ranger station or other administrative use will not be listed.

Listing lands affecting a municipal water supply.

Tracts applied for on a watershed used or needed for municipal water storage and supply will not be listed if settlement upon the area will injure the watershed or contaminate the water.

Listing lands within reclamation withdrawals.

Lands within a National Forest which are covered by a first-form withdrawal for reclamation purposes will not be listed. Lands which are embraced within a second-form withdrawal under the reclamation act will not be listed except with the approval of the Reclamation Service.

Application for listing land within the primary limits of an unsurveyed railroad grant.

Since the Secretary of the Interior has ruled that unsurveyed land, which upon survey will probably fall within a granted section, located within the primary limits of a railroad grant is not subject to entry under the act of June 11, 1906, such unsurveyed lands will not be listed.

Application for listing land within State school-land grants.

Land within school sections in a National Forest may be listed when such sections are unsurveyed; and when such sections are surveyed they may be listed if the State has selected other lands in lieu thereof and the selection has been approved by the Secretary of the Interior, and if the portion of such surveyed school sections sought to be listed was settled on prior to the survey of such section and the creation of the Forest.

Application for listing land within an abandoned military reservation.

Agricultural lands within abandoned military reservations included within a National Forest will be listed upon application; but the Secretary of the Interior has ruled that such lands must be appraised in accordance with the provisions of the acts governing disposal of lands in abandoned military reservations, and the entrymen must pay therefor the appraised price. (Acts of July 5, 1884, 23 Stat., 103; Aug. 23, 1894, 28 Stat., 491.)

Squatter's right to apply for land.

Squatters who settled upon unsurveyed land before its withdrawal for a National Forest, and who have complied with the general homestead law, have the same right to occupy and use their holdings as homestead entrymen, and may, at their option, await survey or apply for the examination of their lands under the act of June 11, 1906. Squatters who settled on unsurveyed National Forest land after its withdrawal, but prior to January 1, 1906, may apply for the examination of their lands under this act; but if such squatters fail after 30 days' notice to make application for listing trespass proceedings against them will be initiated. Upon the acceptance of their applications for listing squatters who settled on unsurveyed National Forest land prior to January 1, 1906, may occupy their tracts without permit pending the opening of the land to entry under this act. Squatters may, under the general homestead law, include in their claims 160 acres after the land is surveyed. Therefore if the land is occupied for agricultural purposes by squatters who settled upon it prior to its withdrawal, the examination will be made with a view of listing the entire tract settled upon, if not exceeding 160 acres, provided the whole tract as a farm unit is chiefly valuable for agriculture.

Application for listing land covered by a claim.

Land within a National Forest covered by a subsisting claim under any of the public land laws, except as to mineral locations for which no application for patent has been made, will not be listed. Applications for land covered by such claims will be accepted, but action upon them will be suspended until a final decision upon the claim is rendered by the Department of the Interior. Applications for land covered by mineral locations will be accepted and the land may be listed if chiefly valuable for agriculture.

Review or reexamination.

In determining whether land applied for under the act of June 11, 1906, is chiefly valuable for agriculture, it is entirely a question of fact and raises no question of law which can be made the basis for an appeal. When an applicant believes that a rejection of his application by the district forester is not justified by the facts, he may file with the district forester within 30 days after notice to him of the decision and the grounds therefor, a petition for a review of the facts, and, if necessary, for a reexamination of the land applied for. If the district forester adheres to his decision, the applicant may file with the district forester, within 30 days after notice of the second rejection of the application, a petition to the Forester for a review of the decision, and, if necessary, for a reexamination of the land applied for. If the Forester affirms the decision of the district forester the applicant may, within 60 days after notice of the decision of the Forester, and the reasons therefor, file with the Forester a petition to the Secretary of Agriculture for a review of the case. All applications for review should be accompanied by affidavit of the applicant, or of other competent witnesses,

fully stating the facts on which the applicant bases his contention that the land applied for is chiefly valuable for agriculture The decision of the Secretary of Agriculture on review of the facts will be final.

Filing in local land office on tracts listed and opened to entry under the act of June 11, 1906.

Persons having preference rights under the act of June 11, 1906, may file their entries at the local land office at any time within 60 days after notice is published that the land has been listed in the local land office and before the land is open to entry. If, when the land is open to entry, the applicant having a preference right has failed to file his entry, it will be subject to entry by the first qualified person to make application at the local land office. Except as expressly provided in the act, title to the land may then be acquired under the same conditions as are prescribed by the general homestead laws for public land outside the National Forests.

Indian allotments on National Forests.

The act of June 25, 1910 (36 Stat., 863), provides that allotments of not exceeding 80 acres of agricultural land, or 160 acres of grazing land, within the National Forests may be made by the Secretary of the Interior to any Indian occupying, living, or having improvements on such land, who is not entitled to an allotment in any existing Indian reservation, or for whose tribe no reservation has been provided, or whose reservation was not sufficient to afford an allotment to each member thereof, when the Secretary of Agriculture has determined that such lands are more valuable for agricultural or grazing purposes than for the timber found thereon. The procedure governing the making of such applications and allotments is given under "Settlement—Procedure on National Forests."

PROCEDURE ON NATIONAL FORESTS.

Applications to be forwarded to the district forester.

Applications for the examination and listing of agricultural land under the Forest homestead act should be addressed to and filed with the district forester, and, when received by forest rangers or forest supervisors, will be immediately referred to the district forester. Forest supervisors and district rangers should keep on hand a supply of application blanks, Form 253, which will be furnished to prospective applicants upon request.

Action on application received by reference from the district forester.

Upon receipt by the supervisor of carbon copies in duplicate of the letter of acceptance to the applicant, an index card and folder will be prepared for the case. Upon the index card will be entered the case designation and such notation as may thereafter be necessary. A blank white card will be used for this purpose. The index cards and folders will be filed alphabetically by the names of the applicants. The promise card (Form 326) forwarded with the request for report will be filled in with the approximate date the report may be expected by the district forester, and will be signed and mailed to the district office. The copy of the district forester's letter accepting the application will be accompanied by a township plat (Form 974) showing the status of the land applied for.

Preparation of tract book.

The tract book shall consist of township plats (Form 123), one for each township in the Forest, index sheets (Form 124), and wing binders.

Townships are recorded first in the order of the towns, north and south, and then in the order of their ranges, east and west, thus:

T. 1 N., R. 1 E., R. 2 E., R. 1 W., R. 2 W.
T. 2 N., R. 1 E., R. 2 E., R. 1 W., R. 2 W.
T. 1 S., R. 1 E., R. 2 E., R. 1 W., R. 2 W.
T. 2 S., R. 1 E., R. 2 E., R. 1 W., R. 2 W.

When an application is received by reference from the district forester, the necessary entries will be made in the first eight columns in the tract-book index sheet (Form 124). The date entered under "Sent for examination" will be the date of the district forester's letter of acceptance to the applicant. The number of the application will be entered on the township plat (Form 123) in ink in each 40 or fraction of a 40 applied for in the proper township and section. When the application is for unsurveyed land, the approximate location of the land applied for will be indicated in pencil on the township plat (Form 123) by a circle containing the number of the application. When the location is ascertained by subsequent survey it will be entered in ink and the pencil notation will be erased.

Entry of status on tract book.

The following legend will be used to indicate on the township plats (Form 123) the status of particular tracts as shown by the records of the Forest Service or General Land Office:

H. E., pending	a dark green	H.
Patented or F. C	a dark green	V.
Desert-land entry	a dark green	D.
Timber and stone entry, pending	a dark green	T.
Timber and stone entry, patent	a dark green	T. P.
Lieu selection, pending	a red	L.
State selection, pending	a blue	?
State selection, approved	a blue	V.
School land	a blue	S.
School land (unsurveyed)	a blue	S. ?
School indemnity, pending	a blue	I.
School base for indemnity	a blue	B.
Railroad selection, pending	a yellow	R.
Railroad selection, approved	a yellow	V.
Railroad primary limits	a yellow	O.
Railroad indemnity, pending	a yellow	I.
Mineral classification	an orange	M.
Nonmineral classification	an orange	N. M.
Townsite (hatched in)	a dark pink.	
Reconveyance, pending	a red	C.
Public land	a red	V.
State boundary line	a double red-ink line with State names written in.	
Reservoir site, approved	an R., half red, half dark green.	
Reservoir site, pending	an R., as above, followed by ?.	

Reclamation Service withdrawals are outlined in yellow, and a notation of the date and title of project made on the margin of the plat. Abandoned military reservations are outlined in blue, with a proper notation on the margin of the plat. Dark green is used to indicate the Forest boundary.

The tract book will be kept up to date at all times in order that the supervisor's record may be identical with the record in the district office.

Instructions to examiner and reference of application for report.

When the application has been properly recorded in the tract book, one copy of the district forester's letter of acceptance of application, together with the township plat (Form 974) and a promise card (Form 328) will be forwarded to the examiner. This letter ordinarily will be the examiner's instructions to make the examination and report, but may be accompanied by a special letter of instructions. If an application covers any lotted tract, it will be checked with the official township plat and the examiner will be informed whether the lotted tract is irregular or rectangular and will be instructed to submit with his report a metes and bounds survey covering any fraction of an irregular lotted tract included in any area recommended for listing. He will also be instructed that a metes and bounds survey is not required if all of an irregular lotted tract is recommended. The examiner will date and sign the promise card and return it to the supervisor after making proper notation for his information. Great care should be taken by the supervisor in handling these examinations, and the examiners should be personally instructed whenever possible. Owing to the prime importance of this work, to the danger of inconsistent action, and to the difficulty of conveying by report a clear idea of the listability of lands in doubtful cases, it is advisable that only the more experienced and efficient Forest officers be assigned to this work. Supervisors will give as much personal attention to the work as possible, so that reexaminations will not be necessary, because reports fail to represent the true conditions of the lands applied for.

Unless prevented by dangerous fire conditions in summer or adverse climatic conditions in winter all reports are due at the district office within 60 days of the date they are referred for examination. The examiners must be supplied with all necessary surveying instruments, maps, blanks, drawing instruments, inks, and colored crayons in order that he may be fully equipped for the work.

Action by examiner in preparation of report.

Upon receipt of instructions to submit a report the examiner, if a district ranger, will prepare a folder for the case and place it in his files. Reports in triplicate will be made in accordance with the outline on Form 110. When two or more applications cover the same tract, a report in full will be made by the examiner upon the prior application only. A report will also be submitted on each subsequent application for the same tract, but such reports will give only the name of the applicant, the date and number of the application, the location of the tract applied for, any special information bearing upon the settlement or occupancy of the tract by the applicant and a reference to the complete report on the prior application. When applications conflict in part only, complete report will be made on each application and a reference will be made in each report to the application with

which it conflicts in part. Since the final action on an application depends on the nature of the examiner's report, the report must be full and complete in every particular. When an application covers surveyed land, the examiner will be certain that the proper public survey corners are located before commencing the examination, and his work thereafter should be as accurate as the topography of the country will permit. In reporting upon the amount and value of timber on the land the examiner must give the estimated average stand per acre and total stand on the entire area applied for. If a part only of the land applied for is recommended for listing, the report must give separately the average stand and value of the timber per acre for the part recommended and also for the part not recommended for listing. While the Secretary of Agriculture does not undertake to pass upon the applicant's qualifications to make entry upon the land listed, the examiner should submit any information he may have regarding occupancy or settlement on the area applied for, and the information will be transmitted to the Secretary of the Interior when the land is listed.

The act of June 11, 1906, with regard to the length of Forest homesteads has been construed by the Secretary of the Interior as follows: "Any tract not exceeding 160 acres in area which may be contained in a square mile, the sides of which extend in cardinal directions, is understood to be within the meaning of the law." The examiner should not recommend for listing to one applicant any tract which exceeds the prescribed length or area.

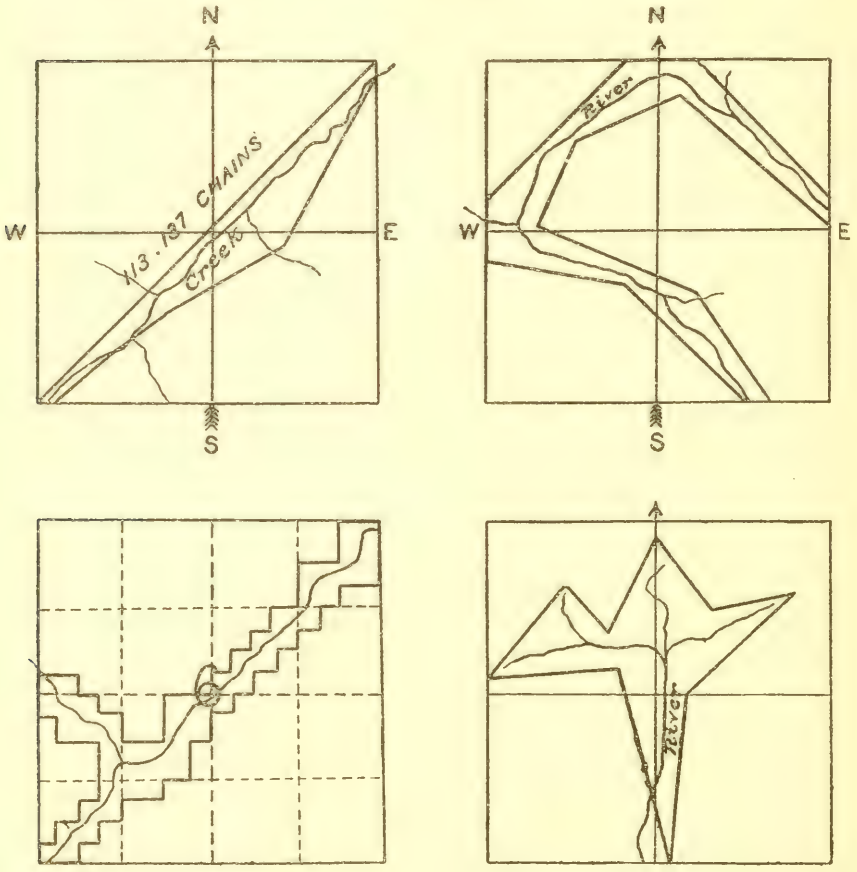
The accompanying illustrations of tracts which might properly be recommended for listing make it possible in many cases to allow an applicant a much greater amount of strictly agricultural land lying along creeks and narrow valleys than would be possible under any other interpretation of the term "one mile in length." These illustrations represent sections or approximate sections.

Examiner to consult applicant.

Whenever possible it is best for the examiner to see the applicant and discuss with him any facts which tend to establish the value of the land for forest or for agricultural purposes, and have him accompany the examiner during the survey and examination. Since final action can be taken only by the Secretary of Agriculture the examiner will not give the applicant any information regarding his recommendations. When the application covers unsurveyed land, and the description is somewhat indefinite, it is particularly desirable to have the applicant present when the survey and examination is made, in order that the examiner may be certain that he is examining the land for which the applicant intended to apply. When the applicant is present at the time of examination, and learns, upon the survey being made, that he has not described in his application the land for which he intended to apply, he may make an amended application, which must be addressed to and filed with the district forester, and a copy may be at once given to the examiner, who will then, without waiting for further instructions, examine and report upon the lands covered by the amended application. In such cases the copy of the amended application will be submitted with the report, and a statement attached to the report showing how and why the application was amended.

Instructions for survey and maps of land applied for.

Surveys will be made in accordance with the manual "Instructions for Making Forest Surveys and Maps." The map accompanying the report must show the location, topography, and cover of the land reported upon, together with road and improvements thereon. For this purpose colored crayons will be used for showing the classifications in conformity with the Forest Atlas legend. These crayons are furnished in boxes of 12, provided with labels showing the number of the pencils to be used for each classification. The lands for which



application is made will be shown by a heavy black ink line, and the boundary of administrative sites will be shown by a red line. The lands that are recommended for listing will be clearly outlined on the map with a blue pencil line. National Forest boundaries will be shown on the map with a green pencil line. The descriptions will cover both the area applied for and that recommended for listing. Where any departure is made from the exact area applied for, or where acreage is not apparent in the application, and the field examination shows it to be less than 160 acres, an explanation should be added. In every case the classification of cover on the land must

appear as a legend on the map (Form 878). Where a tracing on Form 220 is prepared in the case of land listed by a metes and bounds survey the cover will not be shown on the tracing. The tracing will be made with black waterproof ink only. On surveyed lands where the cover is of considerable value, listing may be recommended in not less than 2½-acre rectangular tracts; otherwise the minimum unit should not be less than 10 acres. A metes and bounds survey will be necessary in every case where unsurveyed lands or where only a portion of an irregular lotted tract is recommended for listing. Surveys and field notes will not be required when the examiner recommends against listing. The Secretary of the Interior has decided that survey of tracts entered under this act will not be required when such tracts can be described as quarter-quarter sections or lotted portions of surveyed sections, or as a quarter or a half of a surveyed quarter-quarter section or rectangular lotted tract, or as a quarter or a half of a surveyed quarter-quarter-quarter section or rectangular lotted tract. In every instance permanent and substantial monuments must be erected, and they must be plainly marked or chiseled. Posts may be used, but stones are preferable for monuments when they can be obtained. The bearing trees must also be well marked for future identifications.

Preparation of field notes.

Since the survey notes must conform to the requirements of the General Land Office, they must be prepared in accordance with the "Instructions for Making Forest Surveys and Maps." The original and four carbon copies of the field notes will be prepared and transmitted to the supervisor with the report. The examiner must check over the original field notes for typographical errors and date and sign them before forwarding his report to the supervisor.

Land needed for public or administrative use will not be listed.

If the land applied for entirely surrounds a spring or watering place that is necessary in the administration of the Forest or for use of permittees or the public, the listing of so much of the land as is necessary to protect such users should not be recommended, or if the land is found to be essential for a reservoir site or is valuable for power purposes its listing should not be recommended. If it is found that the withdrawal from entry of the land applied for is essential for the protection of an important watershed to prevent contamination of a city's water supply, or which may be needed for roads or other public uses, or in connection with the removal of timber from National Forest lands, listing should not be recommended. Ordinarily a width of no more than 33 feet should be excluded for a roadway, since the right of way is usually within the best agricultural land recommended for listing; but when a width in excess of 33 feet is necessary it should be excluded and a statement of the necessity must be made in the report. When such rights of way are needed, they must be excluded from the tract recommended for listing in accordance with the decision of the Secretary of the Interior. In describing the area recommended for listing the following clause must be added to the report: "Except a strip of land 33 feet wide, within the exterior boundary lines thereof, which strip is particularly described as follows (describe the place of beginning with bearing points): Extending thence 16½ feet on each side of a line running (give courses and distances) to the place where the end of the strip closes with the boundary of the tract listed."

Where the land has been theretofore surveyed by legal subdivisions, the exception may be in the following words (as, for example, where the purpose is to maintain a right of way along the line of survey), "except a strip 33 feet wide off the south side thereof" (or on whatever side or along whatever line it is desired to make exception).

The Secretary of the Interior has ruled that the law prohibiting the inclusion in one entry of noncontiguous tracts will not be construed to apply to tracts listed under the act of June 11, 1906, from which a strip has been excluded for a right of way. Recommendations will be made for the exclusion of a strip for all roads, either existing or desired, whether the public has an easement in them or not, where it is believed that failure to do so will be detrimental to the interests of the United States.

It is not necessary to recommend the exclusion of a strip of land covered by a private ditch, telephone line, etc., or a right of way that is already acquired under an act of Congress and the regulations of the Department of the Interior. The entryman on the land does not acquire any interest in that part of the land excluded for the right of way under the procedure outlined above, and the acreage of the right of way should be computed and stated in connection with the recommendation for its exclusion, as well as the total area of the lands within the exterior boundary of the tract to be listed. The latter area may therefore embrace a surplus of land to the extent of the area of the right of way excluded, and examiners should bear this in mind, so that where possible the applicant may be given sufficient land to offset the area excluded. When the examiner recommends that a strip of land be excluded from the tract he recommends for listing, a tracing on Form 220 should be prepared showing the courses and distances of the lines bounding such excluded area and the approximate acreage to be excluded. This tracing should be submitted with the report, and the location of the excluded strip should also be shown on the map on Form 878. The report must state in each case whether the excluded strip is for an existing or established public highway or road or for a proposed road, and if the latter the reasons should be fully stated. These instructions apply whether the area listed is described by metes and bounds or is a legally surveyed subdivision.

Applications in conflict with mineral locations.

In case the examiner finds that an application conflicts with a mineral location or locations upon which application for mineral patent has not been made that fact should be fully covered in the report. The examiner will not endeavor to pass upon the mineral character of the land, but a statement will be made showing the work done and improvements constructed by the mineral claimant. If any of the land is found to be more valuable for agriculture than for forest purposes, such land will be recommended for listing, and the district forester will take the matter up with the applicant upon receipt of the report.

Applications in conflict with irrigation ditches under permit.

When an irrigation ditch constructed or maintained under special-use permit exists upon a tract which will be recommended for listing, the permittee should be advised of his right to obtain an easement prior to the listing of the tract under the act of March 3, 1891 (26 Stat., 1095).

Photographs may accompany reports.

In all doubtful cases photographs of the area applied for may be taken and submitted with the report.

Recommendations of the examiner.

The examiner's report must be complete in every detail and contain definite recommendations for or against listing the land. The entire area applied for must be the subject of the recommendations. If only a portion of the area may be listed, definite reasons must be given for the rejection of the balance. When the area applied for and recommended for listing is less than 160 acres, the examiner may include in his report and recommendation for listing any contiguous area of land chiefly valuable for agriculture and not needed for public uses, which with the area applied for and recommended for listing will not exceed 160 acres.

In deciding whether the land applied for should be listed it must be shown that it is not needed for public uses, including reservoir sites, and that it has no value for power purposes and that its value is greater for agricultural than for forest purposes. It is necessary that the values for forest and agricultural purposes, respectively, be separately appraised and that the basis for such appraisal be clearly shown.

To determine its value for forest purposes the report must give the quantity, kind, and value of merchantable timber and of reproduction and the importance of the forest cover for the protection of water supply. The value of the young forest growth below merchantable size and the value of the land itself for the production of timber should be estimated as closely as practicable on the basis of expected yield, using any silvical data available.

To determine its value for agricultural purposes, the report must show the extent to which the land is susceptible of producing cultivated crops, with or without irrigation, and the kind and value of the crops that can be produced. In deciding this the soil, climate, altitude, slope and water supply, distance and accessibility to market must be considered. While accessibility should be considered in determining the relative value of lands for agricultural and forest purposes, distance and inaccessibility to market will not be grounds for the rejection of land which is chiefly valuable for agriculture. As far as practicable under local conditions the market value of improved farm lands in the locality similar in character to the tract applied for, as determined by sales, should be ascertained and reported, together with the cost of putting the land applied for in similar condition. The value of the tract in its present state for agricultural purposes should usually be appraised by deducting the cost of clearing and other necessary improvements from the current price in the locality of improved farm lands of similar character.

Lands valuable for the purpose of grazing only will not be listed under the act of June 11, 1906, but grazing land may be included in an area listed as agricultural land, provided that the area of the grazing land does not exceed the area of the cultivable land.

In determining the boundaries of the area to be recommended for listing they should be established with reference to what constitutes a reasonable farm unit. Small areas of timbered or nonagricultural land may be included for this purpose or to permit the inclusion in

one listing of bodies of agricultural land which would be rendered noncontiguous through the exclusion of such small areas.

A policy which is liberal to the applicant should be followed in appraising the agricultural value of tracts of arable land without value for forest purposes and which may otherwise be listed under the provisions of the act.

The personal qualifications of the applicant or his ability to make a living or maintain a home upon the land must not be considered by the examiner. His strength or health or his ability or experience in agricultural pursuits will not be considered.

If all or any part of the land is found to be chiefly valuable for agriculture and not needed for public use and may be occupied for agricultural purposes without injury to the National Forest, it will be recommended for listing.

Verification of location and submission of report to supervisor.

Before submitting the report to the supervisor the examiner must check the written description of the land reported on with the area shown on the map. The examiner will then sign and date the report, affix his title, and submit the report in triplicate to the supervisor.

Action by supervisor on examiner's report.

When the report is received by the supervisor, if it is found to be incomplete or incorrect, it will be returned to the examiner with appropriate instructions. Before approving the report the supervisor should check it with the tract book to ascertain whether the description of the land reported on coincides with the description of the land applied for. If the land recommended for listing includes lotted tracts, the official township plat should be consulted to see whether a part of any irregular lotted tract has been recommended for listing without being described by a metes and bounds survey. When a metes and bounds survey has been made the field notes and tracing should be checked to see whether they are correct and in proper form. Finally, the entire report should be carefully scrutinized that it may be complete and correct in every particular before being submitted to the district forester. When the report is complete and the supervisor concurs in the recommendations of the examiner, he will indorse it "Approved," sign his name, and affix his title and the date of approval. If the supervisor does not agree with or approve all of the examiner's recommendations, his own recommendations, with his reasons for making them, will be made on a separate sheet and attached to the report. He will also indorse at the bottom of the examiner's report a reference to the attached statement and recommendations.

Report submitted to the district forester.

When final action upon the report has been taken by the supervisor the original will be submitted to the district forester, one copy will be placed in the supervisor's files, and one copy sent to the district ranger. When unsurveyed land is reported on the supervisor will forward the tracing on Form 220 and the original and four carbon copies of the field notes in addition to the original report. When the report recommends that a strip of land be excluded from the area to be listed, the tracing showing the excluded strip should accompany the report. Before submitting the report the supervisor will make pencil notation in the tract book index sheet (Form 124) of the action taken by him in the case.

Free special-use permits on lands recommended for listing and on excluded right of way.

Applicants who appear to have the preference right of entry under the act may secure without charge a permit for the agricultural use of that portion of the land which has been examined and which, in the opinion of the supervisor, is chiefly valuable for agriculture and not needed for public use, provided that the land is not adversely claimed under settlement made before its withdrawal, or after its withdrawal and before January 1, 1906.

Free permits for the occupancy and use of agricultural lands which is recommended for listing will be issued only under the following conditions:

1. When the applicant wishes to occupy the land which has been examined and favorably reported upon, pending its listing under the act of June 11, 1906.

2. When the applicant is doubtful of the agricultural possibilities of the land and desires an opportunity to ascertain whether crops can be raised on it before using his homestead right.

3. When a strip of land for a road right of way has been excluded from an area recommended for listing, the applicant upon whose application land has been examined or the entryman on the area listed may be issued a free agricultural permit for the use of the excluded strip, so long as it is not needed for road purposes.

When the permit is issued under conditions 1 or 2, the following paragraph will be incorporated in the permit:

> This permit shall not be construed to give the permittee any preference right of entry under the act of June 11, 1906. This permit shall terminate when the land is listed; but if it be shown that the permittee has not the preference right of entry the listing of the land will be deferred by the Secretary of Agriculture to protect the growing crops.

When the permit is issued under condition 3, the following paragraph will be incorporated in the permit:

> This permit shall terminate upon notice to the permittee by the forest supervisor that the land is needed for road purposes.

Free special-use permits will be closed when the land is listed.

Record on tract book of final action by Secretary or district forester.

Copies of all letters and blue prints and field notes showing final action taken on an application by the Secretary of Agriculture, district forester, or Secretary of the Interior will be transmitted to the supervisor in duplicate, one copy for the supervisor's files, and one for the district ranger. Upon receipt of a letter showing that final action has been taken on an application, the notation "listed," "rejected," "canceled," "eliminated," or "withdrawn," as the case may be, will be made in the "Recommendation" column on the index sheet (Form 124). In the "List No." column, give, if listed, the number of the list. If rejected because the land was not chiefly valuable for agriculture, enter a green "X." If rejected because the land is patented, enter a green "V." If rejected because of conflict with a ranger station, enter the letters "R. S." in red ink. If the application is rejected because of conflict with railroad lands, enter a yellow "V" or "O," as the case may be. If rejected because chiefly valuable for power purposes enter an "X" with black pencil surrounded by green border crayon No. 69. When canceled for the reason that the applicant does not reply to letters from the

district office, enter "no reply" in this column. In the "Date listed" column should be entered the date that final action was taken on the application by the district forester or Secretary of Agriculture. If all or any part of the tract applied for is recommended for listing, the total number of acres recommended will be entered in the "Acreage" column. The exact area will be outlined and hatched in green on the township plat (Form 123), and the list number written in red ink across the tract listed. Land which is not listed should be shown on the township plat by a green "X" on each 40 or smaller subdivision. When an application is canceled, rejected, eliminated, or withdrawn, a black ink line will be drawn through the application number on the area shown on township plats.

Closing settlement cases.

The supervisor will close all cases as soon as notice is received from the district forester of the final action taken in the case. Upon receipt of the Interior Department notice that final action has been taken to restore the land to entry, it will be placed in the folder in the closed file. Papers in the folders of closed cases may be transferred when necessary to the folders of new or supplemental applications, leaving an appropriate memorandum in the closed folder.

In every instance a copy of the letter closing the case should be sent to the ranger for his files. The supervisor will instruct the ranger that no action will be taken, after the notice of listing has been received in regard to the erection of improvements on, or cultivation of, listed lands by the applicant or other persons.

Annual report.

Supervisors will include in their statistical report (Form 446) to the district forester, due on July 15, a statement of the settlement work on their Forests for the preceding fiscal year.

Sec. 31 of the act of June 25, 1910 (36 Stat., L. 855), provides:

Indian allotment under act June 25, 1910 (36 Stat., 855).

> That the Secretary of the Interior is hereby authorized, in his discretion, to make allotments within the national forests in conformity with the general allotment laws as amended by section 17 of this act, to any Indian occupying, living on, or having improvements on land included within any such national forest who is not entitled to an allotment on any existing Indian reservation, or for whose tribe no reservation has been provided, or whose reservation was not sufficient to afford an allotment to each member thereof. All applications for allotments under the provisions of this section shall be submitted to the Secretary of Agriculture, who shall determine whether the lands applied for are more valuable for agricultural or grazing purposes than for the timber found thereon; and if it be found that the lands applied for are more valuable for agricultural or grazing purposes, then the Secretary of the Interior shall cause allotment to be made as herein provided.

Under section 17 of the foregoing act the maximum quantities of land which can be taken in allotment are as follows:

> 40 acres of irrigable land, or
> 80 acres of nonirrigable agricultural land, or
> 160 acres of nonirrigable grazing land.

Lands to which the mineral laws of the United States apply are not subject to allotment under the provisions of this act. Indians desiring to apply for allotment within National Forests must produce satisfactory evidence to show that they are in possession of or have improvements on the lands desired, and further that such lands are more valuable for agricultural or grazing purposes than for the timber found thereon. Any Indian making application for allotment is

required to take oath that he is an Indian of a certain tribe; that he was born in the United States; that he is the head of a family or a single person over the age of 18 years, as the case may be; that he has not heretofore received an allotment; that he is not entitled to an allotment on a reservation, or that no reservation has been provided for his tribe, or, in lieu of the latter declaration, that there was not sufficient land set aside to afford an allotment to each member thereof. The applicant must show further that he has made actual bona fide settlement on the lands described, for his exclusive use and benefit, or that he has improvements thereon. This affidavit must be corroborated in so far as his Indian character, nativity, and actual bona fide settlement or erection of improvements are concerned, by the affidavits of two or more disinterested witnesses (who may be Indians), or by the affidavit or certificate of some field officer of either the Department of Agriculture or the Department of the Interior. A nonmineral affidavit, executed on the prescribed form, must accompany each application for allotment. Applications must be submitted to the supervisor of the particular National Forest affected, by whom they will be forwarded with appropriate report, through the district forester and Forester, to the Secretary of Agriculture, in order that he may determine whether the land applied for is more valuable for agriculture or grazing than for the timber found thereon.

In case the land is found to be chiefly valuable for agriculture or grazing, the Secretary of Agriculture will note that fact on the application and return it to the applicant with instructions to file it with the register and receiver of the proper local land office.

Should the Secretary of Agriculture decide that the land applied for or any part of it is chiefly valuable for the timber found thereon, he will transmit the application to the Secretary of the Interior and inform him of his decision in the matter. The Secretary of the Interior will cause the applicant to be informed of the action of the Secretary of Agriculture.

Forest rangers and supervisors and district officers will afford every facility to Indians desiring to take allotments under this act, and will assist them wherever necessary in the preparation of their applications and the required proofs. Blank forms for application may be had from the Indian Office, any local land office, forest supervisor's, or district forester's office.

PROCEDURE IN DISTRICT OFFICE.

Action on receipt of application.

Applications for the examination and listing of agricultural land under the Forest homestead act will be addressed to and filed with the district forester. When an application is received in the district office, it will be immediately indorsed with the date and hour of its receipt, and the indorsement will be certified by the initials of the mail clerk by whom it was made. An index card and folder will be prepared for each application received. Upon the index card will be entered the case designation and such notation as may thereafter be necessary. The index cards will be filed alphabetically by the names of applicants. The folders will be filed by Forests, and thereunder alphabetically by the names of applicants. When an application is received which does not conform to the requirements of Reg. L–51

or which applies for over 160 acres, or for two or more noncontiguous tracts, it will be returned to the applicant for correction. Applications when received in the form prescribed by Reg. L–51 will be given consecutive numbers by Forests in the order of their receipt by the district forester.

Entry of applications in tract book.

The tract books for each Forest will consist of township plats (Form 123), one for each township in the Forest, index sheets (Form 124), and wing binders. The tract books will be prepared in accordance with the procedure on National Forests, and the necessary entries made on the Forms 123 and 124 in the same manner as provided in those instructions.

Securing status and notation on tract books.

Whenever status of lands is required, it will be obtained, if possible, from the local land office. When necessary to secure status from the public-land records in Washington, the district forester will use Form 31, changing the words "Register and receiver" to "Forester." No letter will be used in making such requests to the Forester, but any explanation may be made, if necessary, by an accompanying memorandum. The request will be returned with the status report (Form 301). When the status of the land applied for is ascertained, it will be noted on the township plat (Form 123) and the status report filed with the other papers in the case.

Notification to applicant of acceptance of application.

If the status records show that the land applied for is not covered by any entry under the public-land laws or any subsisting claim, the applicant will be notified by letter of the acceptance of his application. If the application is an amended one, the original must be withdrawn unless the amendment is an addition to the original application. In the latter case the amended application will be given the same number as the original application.

Application referred to supervisor for examination and report.

The supervisor will be informed of the acceptance of an application by forwarding to him carbon copies, in duplicate, of the letter to the applicant. These copies will be accompanied by a promise card (Form 326) and a township plat (Form 974), on which will be noted the location of the land applied for, if surveyed, and a description of it if unsurveyed, and the case designation. On Form 124, in the tract book, will be noted the date the application is sent for examination.

Action on report of examiner.

Upon receipt of the examiner's report it will be carefully scrutinized to insure the thoroughness of the investigation and the completeness of statement. If for any reason it appears that the report is erroneous or incomplete, it will be returned to the supervisor who approved the report, indicating its defects and requiring its correction. If the report recommends the listing of an area not included in the original application, the applicant will be given an opportunity to amend his original application, if he has not already done so, to include the additional area recommended, provided that the total area does not exceed 160 acres. When the report covers unsurveyed land, the field notes and tracing on Form 220 will be referred to Atlas. When the report recommends that a strip of land for road right of way be excluded from the tract to be listed, the tracing showing the excluded strip will be referred to Atlas.

The tracings and field notes will be checked as to accuracy and sufficiency of survey, and five blue prints will be made from the tracings. When necessary, the report may be referred for review to the offices of silviculture or grazing. This will be left to the discretion of the district forester. When the report has been finally approved, the proper notation should be made in the tract book on Forms 123 and 124. If all or any part of the tract applied for is recommended for listing, the exact area should be outlined and hatched with a green crayon on Form 123. Any portion of the tract that is found to be not chiefly valuable for agriculture should be indicated by a green "X" in each subdivision on the township plat.

Survey of tract by metes and bounds.

If the tract recommended for listing is unsurveyed, or the exception of a strip for a roadway is necessary, so that a metes and bounds survey is required, the applicant will be notified that the survey may be made by the Forest Service under the direction of the surveyor general, if the applicant will deposit with the proper surveyor general a sufficient sum to pay for the clerical work necessary in his office, and that the expense to the applicant shall not exceed that sum. The district forester will forward a copy of the application to the surveyor general, and, upon receipt of notice from him of the name of the person designated to make the survey and that the deposit in payment of clerical work has been made, will instruct that the survey be made. The surveyor will report the result of his work to the supervisor in the usual manner.

Free special-use permits.

If an applicant desires a free special-use permit pending the restoration of the land to entry, he will be referred to the forest supervisor of the Forest in which the land is located, since all permits of this character will be issued by the forest supervisors.

Withdrawal of applications.

Applications may be withdrawn at any time prior to the date that the land is listed with the Secretary of the Interior by the Secretary of Agriculture. Upon the receipt of a written request to withdraw an application, the proper notation will be made in the tract book on Forms 123 and 124. Applications when withdrawn are not removed from the plats, but are merely canceled by drawing a black-ink line through the application numbers. Subsequent applications by the same person are given new numbers. The applicant will be informed by letter of the action taken upon his request for withdrawal, and two carbon copies of the letter will be forwarded to the supervisor, one for the supervisor's and one for the ranger's file.

Rejection of applications.

If the examiner's report upon an application is adverse, the proper form letter will be prepared for the signature of the district forester. Two carbon copies of the letter will be forwarded to the supervisor, one copy for his files and one for the ranger.

When the application is rejected because the land is not chiefly valuable for agriculture, a green "X" will be placed in each 40 or smaller subdivision on the Form 123 in the tract book, and the same mark made in the "List No." column on the Form 124 index sheet. The final action taken, with date of rejection, will be noted on the Form 124 in the tract book and the case closed.

When an application is received for a tract of land that has been examined and unfavorably reported upon on a prior application, the application will be rejected unless known changes in local conditions justify reexamination.

Reinstatement of original application on reexamination.

If a reexamination shows that the land should be listed, the original application will be reinstated, and the prior applicant or applicants notified.

If the examiner's report shows that only a part of the land applied for is chiefly valuable for agriculture, the applicant will be informed of the result of the examination and will be requested to state whether he desires to exercise his homestead right upon the area which may be listed. Upon the return of the signed blank, which will be inclosed with the letter, the necessary action will be taken.

Notification to applicant of reduced area that has been recommended for listing.

In case the applicant withdraws his application, the procedure will be as prescribed under "Withdrawal of applications." If the applicant wishes the agricultural land listed to him the case will thereafter be handled the same as if all of the land applied for had been recommended for listing.

If no reply is received from the applicant within 30 days, a second notice will be issued. If no reply is received to the second notice within 30 days, a letter will be written to the applicant advising him that his application is rejected and the case closed. The case will then be noted as closed on the tract books. If, however, the tract should be subsequently listed on the application of another, or otherwise, and either separately or as a part of another tract, all of the facts in connection with the first application for such tract should be set forth in the listing letter to the Secretary of the Interior.

When lands covered by applications under the act of June 11, 1906, whether listed or not, are to be eliminated from a National Forest, the applicants should be informed of that fact and that the Secretary of the Interior has decided that after such lands have been eliminated they can not be entered under the act of June 11, 1906, but will be subject to entry under the general land laws. The applicant should be further informed that when the land is eliminated from the Forest the case will be closed as far as the Department of Agriculture is concerned and that they may ascertain from the Interior Department the date the land will be opened to entry.

Notice to applicants when lands applied for have been eliminated from the Forest.

Two copies of the letter to the applicant will be forwarded to the supervisor in order that the supervisor and ranger may be informed, and proper notation will be made on the township plat and index sheet in the plat book.

If an application is received for the listing of land covered by a mineral location for which application for patent has not been made, and where the land is chiefly valuable for agriculture and not needed for public use, the applicant will be informed of the mineral location and that the listing of the land under the act of June 11, 1906, will have no bearing upon the determination of the questions which may arise in a contest before the Interior Department between mineral and agricultural claimants. The applicant will be asked whether, under these circumstances, he desires to exercise his home-

Applications in conflict with mineral locations.

stead right on the land. If the answer is in the affirmative, the land will be recommended for listing. In every case the applicant's signed statement must be included with the other papers in the case when the listing letter is forwarded.

Applications in conflict with municipal water supply.

Applications for the listing of lands on a watershed used for municipal purposes will be accepted unless such lands have been closed to listing by the Secretary of Agriculture for the protection of the municipal water supply. If an application is received for lands which the Secretary has not closed to listing, the wishes of the municipality will be ascertained before final action is taken. The district forester will forward to the proper officials of the municipality a description of the land and request them to state whether in their judgment the occupancy of the land will injure the watershed or contaminate the water.

Applications in conflict with reclamation withdrawals.

If an application is received for the listing of land within a National Forest that is covered by a second form withdrawal under the reclamation act, the applicant will be notified that the land will not be listed until the approval of the Reclamation Service is secured. The district forester will forward a description of the land applied for to the supervising engineer of the Reclamation Service and request him to state whether the listing of the land will interfere with the purposes for which the withdrawal was made. If the Reclamation Service has no objection to the listing of the land the application will be accepted, the applicant will be informed, and the supervisor instructed to submit the report in the usual form. If the Reclamation Service objects to the listing of the land, the application will be rejected, the applicant informed, a proper notation made on the tract book, and the case closed.

Applications in conflict with State school lands.

If an application is received for the listing of unsurveyed school lands included within a National Forest, the application should be accepted and treated in the usual way, and if the land applied for is within a surveyed school section for which the State has made indemnity selection which has been approved, the application should be accepted and treated in the usual way. If the land applied for is in a surveyed school section for which indemnity selection has not been made and approved, the application should be rejected, the applicant notified, and the case closed. If the land is covered by a selection made by the State under any grant made to it, the application should be treated as provided in the preceding sentence.

Applications in conflict with unperfected claims, except mineral location.

When an application is presented for the listing of a tract of land, under the act of June 11, 1906, which is covered by a homestead or any other entry, selection, filing, mineral application for patent or reservoir right of way, such application will be given a serial number and noted on the tract books in the usual manner, but the applicant will be notified that the application has been suspended, pending final decision by the Secretary of the Interior on the unperfected claim in conflict.

Two carbon copies of the letter to the applicant will be sent to the supervisor, who will make the proper entries in his tract book, but

who will not have an examination made of the land until the suspension is removed and the application is accepted.

Applications received and suspended under this procedure will not be classed as pending cases, but will be classed as suspended cases and entered as such in the annual reports.

When a suspended application is accepted, the procedure to be followed will be the same as that prescribed for the reference of an application to the supervisor for examination and report.

Applications in conflict with railroad grants.

Applications for unsurveyed lands located within the primary limits of a railroad grant, which probably will be granted sections, will be rejected, and the applicant will be informed that the Secretary of the Interior has decided that such lands can not be opened to entry under the act of June 11, 1906. The procedure will then be the same as when the land applied for is found to be patented, except that a yellow "O" will be placed in the "List No." column on Form 124.

Applications in conflict with patented lands or selected administrative sites.

When an application is received for patented lands or lands that have been selected and posted for administrative or public use, the applicant will be informed by letter of the status of the land applied for and the application will be rejected. Two carbon copies of the letter of rejection will be forwarded to the supervisor for the supervisor's and ranger's files. Applications of this character will be given a number, card, and folder, and will be noted in the tract book on Forms 123 and 124 in the usual manner, after which the case will be closed. Subsequent applications from the same persons are given new numbers. If the application is rejected for the reason that it conflicts with patented land, a dark green "V" should be placed in the "List No." column on Form 124. If the conflict is with approved railroad lands, a yellow "V" is placed in the "List No." column. If the conflict is with a ranger station, the letters "R. S." in red ink should be placed in the "List No." column on Form 124.

Preparation of Secretary's and district forester's letters.

All letters prepared for the signature of the district forester or assistant district forester will be written with three carbon copies.

All letters prepared for the signature of the Secretary or the Forester will be written with four carbon copies. The letters prepared for the signature of the Secretary will be written with a purple copying ribbon.

The case designation will not be placed on the letters prepared for the signature of the Secretary, but should be placed on the carbon copies of these letters.

List numbers, listing and transmittal of papers to Secretary.

The series of list numbers now in use by each district will be continued. Each application listed will be given a serial list number. The list number, Forest number, name of Forest, State, acreage, and date of list will be noted in the district list book on Form 345 in pencil. When the listing letter is forwarded to the Forester, the recommendation, list number, date listed in the district office, and acreage recommended will also be noted in pencil on Form 124 in the Forest tract book. The Secretary's letter,

together with two carbons and all the papers in the case, will be forwarded to the Forester.

When the land is listed by a metes and bounds survey, two copies of the blue prints and field notes will be transmitted with the other papers in the case.

When a strip of land is excluded from the tract listed, two blue prints showing the location and area of the excepted strip will also be forwarded with the list letter.

Preference rights.

The act recognizes two preferred entrymen, (1) the settler prior to January 1, 1906, (2) the person upon whose application the land was examined and listed.

In case there is no preferred settler only the name of the person upon whose application the land was examined and listed should appear as the preferred entryman in the listing letter. If, however, a portion of said tract was formerly examined on the application of another, but not listed because the first applicant did not reply to small-area letters addressed to him, all of the facts in regard to the first application covering such small area should be recited in the listing letter to the Secretary of the Interior. If, however, the first applicant has expressly withdrawn his application or has refused to accept the listing of such small area, the person making application for the same area at a later date shall be deemed the person upon whose application the tract was examined and listed, and he only will be named in the listing letter.

Notification to applicant and supervisor of final action by Secretary.

When the carbon copy of the listing letter showing the Secretary's signature is received from the Forester, the pencil notations made on Form 345 in the list book and on Form 124 in the Forest tract book will be made in ink, and the date of the Secretary's signature will be noted as the date the land was listed.

The list number will then be written in red ink on the township plat in the tract book across the tract listed.

The applicant will at once be notified by form letter that the land has been listed. When the land was listed by a metes and bounds survey one copy of the blue print will also be forwarded to the applicant. Two carbon copies of the listing letter and two copies of the letter of notification to the applicant will be forwarded to the supervisor, together with two copies of the field notes and blue prints if the land was listed by a metes and bounds survey, and two copies of the blue print if a strip of land was excluded from the tract listed.

Closing cases.

All canceled, withdrawn, or rejected cases will be closed upon the date that final action is taken by the district forester, and all listed cases will be closed upon receipt of the copies of the Secretary's listing letter. Two copies of the letter taking final action will be forwarded to the supervisor.

Upon receipt of the Interior Department notice that final action has been taken to restore the land to entry, the date of restoration to entry will be entered in the list book (Form 345). A memorandum of the notice will be placed in the folder in the closed file, and the notice will be sent to the supervisor.

Annual report.

Annually, on August 1, district foresters will submit to the Forester, on standard atlas pages, a report on settlement. The report will be in the form prescribed in advance by the Forester.

PROCEDURE IN WASHINGTON OFFICE.

Action on drafts of listing letters.

Drafts of list letters prepared in the district offices and all other settlement correspondence will be referred to the branch of lands. If the case is returned to the district forester, a follow-up card will be kept in the branch of lands.

Listing letters will not be rewritten in the Washington office, unless the draft on its face contains a typographical error, or the draft submitted is not in good form. The intention of the district forester in drafting the letter, as to its substance, must be clear before any letter will be rewritten or changes made therein without returning it to the district office.

Listing letters returned to district office.

Cases will be returned to the district forester with proper instructions, when upon examination any of the following circumstances exist:

(*a*) When reports and papers which are the basis for the list are not inclosed.

(*b*) When the character of the land is not clearly shown in the reports and accompanying papers.

(*c*) When the reports and papers show that more than half the area recommended for listing is pure grazing land.

(*d*) When the area recommended for listing is less than that applied for, no reason given therefor, and no statement from the applicant that he wishes to enter the area as reduced.

(*e*) When there is a discrepancy between the dates of application as shown by reports and those given in the draft of letter.

(*f*) When there is a discrepancy in the description of the land, as shown by reports, and by draft of letter.

(*g*) When the two copies of field notes and blue prints describing the area required in case of a metes and bounds survey are not inclosed with the papers.

(*h*) When in the case of a metes and bounds survey there is a discrepancy in the description shown by the field notes and that shown by the blue prints.

(*i*) When the description of the roadway excluded from the listed area is not given in the listing letter, or the blue prints of the roadway are not inclosed.

(*j*) When there is a discrepancy between the letter and the blue print showing the description of the roadway.

(*k*) When it is found that the area recommended for listing is covered by a claim of record.

Action by Secretary.

If the listing is approved by the Forester, the listing letter will be submitted to the Secretary of Agriculture for action. Except in special cases, the reports and papers will not accompany the letter to the Secretary.

Papers returned to district.

After the letter is returned from the Secretary's office the listing letter will be mailed and all reports and papers relating to the case returned to the district forester. One carbon of the listing letter will be retained in the files of the Washington office.

Action on request by district forester for status of land.

When status of land is obtained from the General Land Office upon request from the district forester, the report to the district forester will be made on Form 301, which will be accompanied by a memorandum if necessary.

Action on requests for information regarding status of cases.

When requests are received for information regarding the status of settlement cases which can not be furnished from the records of the Washington office nor the General Land Office, the request will be acknowledged and the writer will be informed that the request had been forwarded to the district forester with instructions to furnish the information requested. Two carbons of this letter with the communication from the person making the request and such inclosures as may have been transmitted therewith will be forwarded to the district forester concerned with appropriate instructions stamped thereon.

Communications from applicants.

All applications or correspondence from applicants not in the nature of a request for review of the district forester's action will be referred to the district forester for appropriate action and the writer notified by form postal card.

Action on request to the Forester or Secretary for reexamination or review.

When an application is received for a reexamination of the tract or a review of the decision of the district forester, such action will be taken as may be warranted by the showing made by the application and the record in the case.

Action on correspondence from Interior Department.

When replies to communications from the General Land Office or the Department of the Interior in connection with settlement matters can not be made from the information available in the Washington office, such communications will be referred to the district forester for the preparation of reply for the Forester's or Secretary's signature.

ADMINISTRATIVE SITES.

U. S. Department of Agriculture,
Forest Service,
Washington, D. C.

The following procedure and instructions relating to administrative sites in National Forests are hereby established and issued to take effect February 1, 1912.

Henry S. Graves, *Forester.*

Approved December 19, 1911:
James Wilson, *Secretary.*

PROCEDURE.

Selection.

Lands within National Forests may be selected for administrative uses, including supervisor's or ranger's headquarters, gardens, pastures, corrals, planting or nursery sites, and rights of way. If suitable sites for administrative purposes can not be found within the Forest, vacant and unappropriated public land outside may be recommended for withdrawal under the act of June 25, 1910 (36 Stat., 847).

A general plan for selecting sites, based upon the present and probable future requirements for fire control and the transaction of the business of each National Forest, must first be formulated. Since it is impossible to foresee with certainty the development and extension of the use of the resources of the National Forests, it is impossible to determine with certainty the number and location of the administrative sites which in the future will be required to properly protect and administer the Forests. In addition to selecting sites required for the present, supervisors must consider the probable future requirement, but great care must be taken not to select sites which will unnecessarily retard the development by settlers of agricultural land within National Forests.

Rangers' headquarters.

Administrative sites for rangers' headquarters will if possible be selected where there is enough agricultural land for a garden and suitable pasture land for a few head of horses and one or two cows, and, when necessary, where there is enough water for irrigation.

Amount of land for rangers' headquarters and pasture.

Administrative sites for rangers' headquarters should not exceed 160 acres in area, and a smaller area should ordinarily be sufficient. A larger area may be required to be used as an inclosure to handle horses belonging to the Government and to Forest officers, or to be used to raise feed for Government horses, and the horses of Forest officers which are used in official business.

In order to avoid conflicts with applicants under the Forest homestead act, the selection of administrative sites should be completed at the earliest date possible. All sites selected must be conspicuously posted with administrative site notices (Form 263) in order that the public may know the status of the land.

Sites selected and posted as rapidly as possible.

No site will be selected which has been applied for under the act of June 11, 1906, or is actually occupied or used in good faith for agricultural or mining purposes or for a home. If an area actually needed for administrative purposes is covered by a claim, a report on the claim may be made in accordance with the procedure prescribed under "Claims." The selection will not be made or the site posted while the application is pending or until the claim is abandoned or is canceled by the General Land Office.

Occupied areas.

Unsurveyed lands within the limits of railroad grants which will, when surveyed, be included in railroad sections will not be selected if it is possible to find other areas. When such lands are selected they will be subject to any rights which may accrue to the railroad by reason of survey and patent.

Railroad lands.

When a State indemnity selection has been approved the base land may be selected and used for administrative purposes even before patent to the land selected by the State has issued.

State selection.

Supervisors will not select mineral lands for administrative sites unless a suitable site on nonmineral land can not be secured.

Mineral lands.

The selection of an administrative site within a withdrawal for reclamation purposes will not be made until the district forester is informed by the supervising engineer of the Reclamation Service that the use of the land for an administrative site will not conflict with the purposes for which it was withdrawn.

Reclamation withdrawals.

A relinquishment offered by a claimant, when the use of the tract covered by the claim and the purchase of the improvements thereon for administrative purposes is contemplated, must not be accepted until its acceptance has been specifically authorized by the Forester. (See "Claims," Reg. L–41.)

Relinquishments.

In determining the amount to be offered for improvements which it seems advisable to purchase, their actual value to the Forest Service and not necessarily their original cost to the claimant should govern. No consideration can be given for the value of the land, since its title is in the United States. Land can not be purchased except under a specific appropriation by Congress.

Purchase of improvements.

When an administrative site is selected, it will be immediately located by legal subdivisions if on surveyed land or by a metes and bounds survey if on unsurveyed land. Surveys will be made in accordance with the "Instructions for Making Forest Surveys and Maps." The status of the land will then be obtained and, if open to selection, the site will be

Procedure after selection.

conspicuously posted with administrative site notices (Form 263). Notices may, if necessary, be posted before survey is made or status is obtained. A report in duplicate on Form 271 will then be submitted to the supervisor by the Forest officer who located and surveyed the site. If there are improvements upon the site, a description of their extent and condition, their estimated value to the Service, and the name and address of the claimant, if any, will be given, together with a recommendation for or against their purchase. The report will also give the date the site was posted. A map on tracing linen (Form 220) and field notes of a metes and bounds survey, if one was made, must accompany the report. Administrative sites will be designated by appropriate names. Upon receiving the report the supervisor, after checking it to determine the accuracy of the description, survey, and status, will prepare a folder and index card and will record the selection in the tract book township plat (Form 123). The following method will be used:

Selections or withdrawals proposed.	Outlined in red crayon and given a key number in red ink. (Unsurveyed areas are indicated by a circle.)
Withdrawals effected	Hatched in red crayon.
Release or cancellation proposed	Outline in black pencil.
Release or cancellation effected	All crayon and pencil markings erased.

Entries of administrative sites on township plats will be indexed on the margin of the plat upon which the site is entered. The index will be entered upon the left-hand margin and will give in red ink the key number of the site and in black ink the name of the site and, when necessary, the date of withdrawal and data regarding release. The name and description of the site will also be entered alphabetically on a special index sheet in the front of the tract book.

When the site selected is on National Forest land, the supervisor, after indorsing his approval on the report, will submit it to the district forester with two blue-print copies of the tracing, and when the site was located by a metes and bounds survey, with one copy of the field notes. If the selection is approved by the district forester, the site will be recorded in the Forest tract book, an indorsement of the district forester's approval will be made on the report and blue prints, and the report, one blue print, and the field notes, if any, will be returned to the supervisor, and one blue print will be retained in the files of the district office. When the blue print only of selected sites is retained, it can be filed in a general folder for the Forest, but when correspondence or other papers are retained, as in the case of withdrawn sites, a special folder and index card may be provided.

Sites outside Forest boundaries.

When the site selected is on vacant and unappropriated public land outside a National Forest, the procedure prescribed will be followed in selecting, locating, and reporting upon the site; but the report when submitted to the district forester must be accompanied by a letter from the supervisor stating the urgent need for withdrawing the site. If the tract recommended for withdrawal is in Washington, Oregon, Idaho, Montana, Colorado, or Wyoming, it must appear in the communication from the supervisor that there is *absolutely no tract*

within the Forest boundaries which can be used for the purpose desired. Only such tracts as can be described by legal subdivisions or approximate legal subdivisions should be recommended. If the district forester approves the selection, he will submit to the Forester the report and supervisor's letter, together with the original and two copies of a letter to the Secretary of the Interior prepared for the signature of the Secretary of Agriculture, recommending the withdrawal, and the original and two copies of a draft of Executive order making the withdrawal. The letter to the Secretary of the Interior must contain a statement that there is no land within the Forest boundaries suitable and available for the purpose involved. When final action has been taken, the papers will be returned to the district forester. If the Forester disapproves the selection, the papers will be accompanied by the original and one copy of his disapproval. If the site is recommended for withdrawal, the papers will be accompanied by a copy of the Secretary's letter and a copy of the Executive order.

When the papers are received by the supervisor, the final action will be recorded in the tract book. The supervisor will forward to the district ranger a copy of the report with an indorsement of the final action taken and a blue print of the tracing. He will forward with the report a copy of field notes and of the Executive order of withdrawal, if any.

Closing administrative site cases.

In the district office an administrative site case will be closed when the selection has been approved or disapproved by the district forester or the Forester or the site has been withdrawn by an Executive order and the supervisor has been notified of the final action. In the supervisor's office the case will be closed when notice has been received from the district forester of the final action taken and after the record of final action has been made and the district ranger notified. When a conflict arises between an administrative site selection and a claim or an application under the act of June 11, 1906, the administrative site case will not be closed until the conflict is finally settled.

Cancellation of selections and withdrawals.

Administrative sites on National Forest land which have been selected, but which have not been withdrawn by the Secretary of the Interior or by an Executive order may be canceled by an order of the district forester. The order will be prepared in triplicate by the supervisor and the original and one copy will be submitted to the district forester. The order will identify, by name and description, the site to be canceled and will give the reasons for the cancellation. If the cancellation is approved by the district forester, he will sign the order, and after the cancellation has been recorded in the Forest tract book the original order will be returned to the supervisor. After the final action has been recorded in the tract book in the supervisor's office a copy of order will be forwarded to the district ranger. Administrative sites which have been withdrawn by the Secretary of the Interior or by an Executive order may be revoked either in whole or in part by the Secretary of the Interior or by an Executive order, respectively. The supervisor will submit to the district forester a letter recommending the revocation which will identify the site by name, description, and location and which will give the reasons for

the recommendation and will state whether the site is valuable for water-power purposes. The district forester will prepare and submit to the Forester a letter to the Secretary of the Interior for the signature of the Secretary of Agriculture, recommending the revocation of the withdrawal or a draft of an Executive order revoking the withdrawal, as the case may be. The letter to the Secretary of the Interior must give the name of the site, the date of withdrawal, a description of the land withdrawn if surveyed, and if unsurveyed its approximate location by metes and bounds, including the meridian, the name of the National Forest and State, the approximate number of acres included and the value, if any, of the site for water-power purposes. The Secretary's letter or the draft of the Executive order will be accompanied by the supervisor's letter and, if necessary, by a memorandum from the district forester to the Forester. The subsequent procedure will be the same as when a withdrawal is recommended. When an administrative site is canceled or revoked the administrative site notices will be at once removed from the area.

Annual report by supervisor and district forester.

Supervisors will include in their statistical report (Form 446) to the district forester, due on July 15, a statement for the preceding fiscal year of administrative sites. Annually on August 1 the district forester will submit to the Forester, on standard atlas pages, a report on administrative sites. The report will be in the form prescribed in advance by the Forester.

Water appropriations.

In all cases where it is necessary to obtain from a lake, spring, or water course (natural streams, including rivers, creeks, runs, and rivulets) water for use on an administrative site for domestic or irrigation purposes the provisions of the State laws with reference to the appropriation and use of water must be fully complied with. Reimbursement will be made for expenses incurred in taking the steps incident to complying with the law. The district foresters will issue separate circulars to the supervisors in each State in their respective jurisdictions fully explaining the requirements of the State law and embodying such forms as it may be necessary for the Forest officers to use. Since August 30, 1890, rights of way for ditches and canals are reserved to the United States in all patents issued west of the one hundredth meridian.

O

LIBRARY OF CONGRESS
0 002 889 025 4